IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

THE STATE OF TEXAS, Plaintiff	)	
VS.	)	CIVIL ACTION NO. 5-96CV91
THE AMERICAN TOBACCO COMPANY, ET AL	)	

ORAL DEPOSITION
OF
LARRY LAWSON

AUGUST 15, 1997

(ACCOMPANIES VIDEOTAPE)

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TEXARKANA DIVISION

THE STATE OF TEXAS, Plaintiff	)	
VS.	)	CIVIL ACTION NO. 5-96CV91
THE AMERICAN TOBACCO COMPANY; R.J. REYNOLDS TOBACCO COMPANY; BROWN & WILLIAMSON TOBACCO CORPORATION; B.A.T. INDUSTRIES, P.L.C.; PHILIP MORRIS, INC.; LIGGETT GROUP, INC.; LORILLARD TOBACCO COMPANY, INC.; UNITED STATES TOBACCO COMPANY; HILL & KNOWLTON, INC.; THE COUNCIL FOR TOBACCO RESEARCH-USA, INC. (Successor to Tobacco Institute Research Committee); AND THE TOBACCO INSTITUTE, INC., Defendants	)	

* *

ORAL DEPOSITION OF LARRY LAWSON

* *

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ANSWERS AND DEPOSITION OF LARRY LAWSON, a witness called by the DEFENDANT PHILIP MORRIS, taken before MARY LOU TAYLOR, Certified Court Reporter for the State of Texas, on AUGUST 15, 1997, beginning at 9:00 a.m. and ending at 3:40 p.m., at the offices of Williams Bailey, 8441 Gulf Freeway, Suite 600, Houston, Texas, pursuant to the Federal Rules of Civil Procedure.

APPEARANCES

For the Plaintiff:
WILLIAMS & BAILEY
By: Mr. Jim Hart
8441 Gulf Freeway, Suite 600
Houston, Texas 77017-5001
(713) 649-6464

For the Defendant Philip Morris:
KALKINES, ARKY, ZALL & BERNSTEIN
By: Mr. John J. Hay
1675 Broadway
New York, New York 10019
(212) 647-1608

Also present:
Mr. Mark L. Susman
VideoFiles Media Group, Inc.
(713) 622-5515

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THE VIDEOGRAPHER: It's 9:22. We're on the record.

(Deposition Exhibits Nos. 1 and 2 (marked for identification.

LARRY LAWSON

was called as a witness and, having been first duly sworn, testified as follows:

EXAMINATION

BY MR. HAY:

Q. Good morning, Mr. Lawson. My name is John Hay. I represent the defendant Philip Morris in this litigation. I'm going to be asking you some questions this morning. If for any reason you don't understand my question or you would like me to repeat it, please advise me of that and I will rephrase or repeat the question. If you don't ask me to repeat it or rephrase it, we'll assume that you understand my question. Also during the course of the deposition, at any time, if you need take a break or anything like that, just alert us of that fact and we'll stop and give you a break. Can you please state your full name

9:22:4
9:23:0
9:23:30

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and home address for the record?
A. My name is Lawrence Lawson. I reside at [DELETED]

Q. I'm going to hand you what I've had the court reporter mark as Exhibit No. 1 and ask if you can identify that for the record, please? 9:24:0
A. I've seen this.
Q. All right. Just for the record, it's -- what I've handed the witness is a letter dated August 7th, 1997, to Tom Stoever from Glenn Mintzer. And is this Exhibit 1, your list of documents that you're relying on and also attached the list of opinions that you intend to render in this case? 9:24:3
A. Yes.
Q. Okay. We'll get into them in more detail in a second. I just want to mark that. 9:25:0
Let me show you what's also been marked as Exhibit 2 and ask you to identify that for the record.
A. This is a copy of my resume.
Q. Okay. Is that a current resume? Is that your most current resume?
A. Yes. I've -- I've had one other small two-week job, you know, since this, but that's 9:25:30

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all.

Q. Okay. Well, we'll get to that as well in detail. I just wanted to make sure that we had the right document. Now your attorney has handed me this morning certain documents, and could you identify for us what these documents are. As I understand it, these are the documents that you have reviewed but are not relying on for your opinions?

A. That's true. 9:26:

Q. Okay.

A. These are copies of the 1992 and the 1993 COMPAS Summary Report. And this is a copy of a document that someone submitted to me, a request to fill a question that I had in one of these supporting -- earlier supporting documents.

MR. HAY: Okay. Why don't we mark this as collective Exhibit 3 so we have everything on the record here. 9:26:3

(Deposition Exhibit No. 3

(marked for identification.

Q. Now Exhibit 3, as I understand it, are the documents you have reviewed with respect to the testimony in this case but are not relying

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on for your --
A. That's true.
Q. Okay. Have you reviewed any other documents for the purposes of your opinion?
A. No, sir.
Q. Have you reviewed any other documents in preparation of your deposition today? 9:27:0
A. No, sir.
Q. So the entire universe of the documents that you have reviewed with respect to your work in this case are the documents listed on Exhibit 1 which are those you're relying on.
A. Uh-huh.
Q. Which represents seven documents and the documents that you've handed us today, these three additional documents? 9:27:30
A. That's true.
Q. That's correct?
A. That's correct.
Q. Now turning back to Exhibit 1 which -- and we'll start with the documents that you -- 9:28:00
you're relying on for your testimony -- and for your testimony and opinions in this case, which, as I said, of the three documents previously disclosed and the four documents

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that we just recently received.
A. Uh-huh.
Q. Okay. Are there any other documents you feel you need in order to complete your analysis to give your opinions in this case?
A. No, sir. 9:28:3
Q. Are there any documents that you've asked for and have not received to assist you in your analysis in this case?
A. No, sir.
Q. Have you completed your work in terms of -- have you done everything necessary in order to come up with your conclusions and opinions that you expect to render at trial?
A. As far as I've been asked so far.
Q. Okay. Is there any additional work -- I mean, we have your list of opinions in order for you to be comfortable and to testify as to those opinions, is there any other work that you have to do in the future? 9:29:0
A. No, sir.
Q. Have you been asked to testify in any other areas other than what's listed on your statement of opinions?
A. No, sir.

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Q. So as far as you're concerned, for your opinions and for the purpose of your testimony, your work -- you're satisfied that your work is completed and you don't have anything ongoing to do; is that correct? 9:29:3

A. I don't have anything ongoing unless I'm asked to furnish my opinions on -- in other areas.

Q. Okay. Has there been any indication that you might be asked to furnish opinions in other areas?

A. No, but it was an option that was left open.

Q. Now the first document you list here for documents previously disclosed that you're relying on is Texas Medicaid and Perspective, Second Edition, January 1st, 1997. Do you see that? 9:30:0

A. Yes, sir.

Q. What in that document are you relying on for your opinions? 9:30:3

A. Most all of this information was for refresher, memory refresher.

Q. When you say "most all of this information," what do you mean by that? I mean, are you talking about all the documents or are you just talking about --

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A. All of the documents were used to refresh my memory on -- on the Texas MMIS system, that's the Medicaid Management Information System.
Q. Okay. So sticking with Texas Medicaid and Perspective, and I can show you a copy of it if it would help you. Is there anything in that document in particular that you're relying on, any facts stated in it that -- any particular fact or statement in it that you're using to support your opinions? 9:31:0
A. No, sir.
Q. And you also list here two COMPAS reports, one is July of 1990 and the other -- although I think it's a typo here, it's really July of 1991. Is there anything -- any specific fact in those reports that you're relying on to -- 9:31:3
A. No, sir.
Q. -- to support your opinion?
A. No, sir.
Q. This is just background material -- 9:32:00
A. Background material, refresher material.
Q. -- to familiarize yourself with the system?
A. Yes.
Q. Now, the documents that have recently been produced, which are listed as one through four

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there, two letters and two System Performance Reviews, are there any specific facts that you're relying on in those documents?
A. No, sir. 9:32:3
Q. Again, this is just refresher as to --
A. Yes, sir.
Q. Did you review any other Systems Performance Reviews?
A. No, sir.
Q. Did you ask for any other Systems Performance Reviews?
A. I asked for all available Systems Performance Reviews and I think this is -- was the response.
Q. You asked the State to provide you with all available system performance reviews and what they provided you with was the 1991 and the 1994 system performance reviews?
A. I didn't make the request to the state. 9:33:00
Q. Okay. I apologize. Who did you make the request to?
A. I made the request to --
Q. Mr. Hart?
A. Mr. Hart.
Q. Your attorney? Okay. In any event, whoever

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you made the request to, even if you made it to Mr. Hart, what you've been provided are just the two system performance reviews that are listed here, correct?

A. That's true.

Q. And those letters that are listed under those Systems Performance Reviews, Nos. 3 and 4 from Christine Nye to Burton Ralford, and the second letter from Sally Richardson to DeAnn Friedholm, those letters relate to those Systems Performance Reviews; is that correct? 9:33:3

A. Yes, sir.

Q. Did you get any other letters related to any other Systems Performance Reviews?

A. No, sir.

Q. Did you request letters that relate to any System Performance Reviews?

A. As I stated before, I requested, you know, all available System Performance Reviews and this is what I got.

Q. Okay. Did you ask for all documents that relate to the Systems Performance Reviews?

A. No, sir. 9:34:00

Q. No?

A. No, sir.

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Q. Do you know if there have been System Performance Reviews performed on the State of Texas other than the 1991 and the 1994?
A. Yes, sir.
Q. There have been?
A. Yes, sir.
Q. How often are they prepared?
A. Systems Performance Reviews were dictated by Health Care Finance Administration to be done on an annual basis. And after the results, it was determined that if a system maintains its good performance, that you can do it once every three years, but they're still subject to an annual review. They can be done once every three years if -- as a -- as a minimum. 9:34:3
Q. When did they -- when did Health Care Finance or HCFA regulations begin to require Systems Performance Reviews? 9:35:00
A. It was in the early '80s. I'm not actually absolutely sure on when it was.
Q. So it's conceivable that for some time in the early '80s or '81, '82, to 1991, there should be a System Performance Review every year of the State of Texas?
A. Yes, sir.

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Q. But you haven't seen any of those documents?
A. To review for this trial, no.
Q. Okay. Did you see them at some other time?
A. I was involved with them.
Q. Okay. Well, we'll get into that in a second. But, in any event, you don't have any copies of those? 9:35:3(
A. No.
Q. I'm going to be jumping back and forth on some of these documents. Why don't we find out a little bit about you. I'll hand you your -- Exhibit 2, which you've identified as your resume. 9:36:0(
A. Okay.
Q. And, if I may, let's go through with this. The first point I guess is that -- or the first question relates to the fact that you had since the drafting of this resume, another job you've indicated, or two-week period of work on something? 9:36:30
A. I did some contract work for a Tucker Allen in New Hampshire. New Hampshire was getting ready to go through an initial certification of their Medicaid Management Information System. And New Hampshire contracted with

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Tucker Allen to assist them in preparing for the initial certification. And then, being they were re doing them, this certification. And that was in April and May of this year. 9:37:0(

Q. May -- April and May of '97?

A. '97.

Q. Right. And what was your role in that?

A. To assist the State in getting ready to -- prepare the State and the staff to get ready for MMIS certification.

Q. And that was -- you were basically hired as an independent contractor by Tucker Allen to do that work? 9:37:3(

A. Yes, sir.

Q. And you said that lasted for two weeks?

A. I think I was there for -- for a two-day period to get an overview, and then we went back and we were there for two weeks. We were there a week prior to the review and the week of the review. 9:38:00

Q. Okay. And what was your compensation for that work?

A. I think that was at an hourly rate of $100.

Q. So, in total, do you remember how much compensation?

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A. I -- I would say maybe 10,000, in the neighborhood of $10,000. 9:38:3

Q. Okay. Have you ever done any other work for Tucker Allen?

A. No, sir.

Q. So in the two-week period, you spent about a thousand hours or about 100 hours?

A. Well, I was there for two days prior to that and then each week was -- probably in excess of 40 hours a week, so the two weeks of 40 hours would be -- would be 80 hours and time before that. So I would assume it was roughly 100 hours. 9:39:0

Q. Okay. And you've been retained with respect to this litigation, I assume? 9:39:3

A. Yes, sir.

Q. Is that by a written agreement or verbal agreement?

A. It's a written agreement.

Q. And what are the terms of that agreement?

A. The hourly rate.

Q. What's the hourly rate?

A. $200.

Q. Two hundred?

A. $200 an hour.

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Q. Any minimum or maximum hours?
A. No, sir. 9:40:0
Q. Any difference in hourly rate depending on wheither you're testifying or doing other work?
A. No, sir.
Q. How many hours have you devoted to your testimony in the Texas litigation?
A. I would say probably in the neighborhood of 50, 60 hours.
Q. And do you have any estimate as to how many -- the number of hours necessary to complete your work in the Texas case? 9:40:3
A. No, sir.
Q. Does the written agreement provide for any other terms other than just the $200-an-hour rate?
A. $200 an hour plus expenses.
Q. Is there any guaranteed minimum or maximum or anything like that? 9:41:00
A. No, sir.
Q. Now have you been retained with respect to any other Tobacco litigations?
A. Yes, sir.
Q. Which ones?

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A. Mississippi.
Q. Any others?
A. No, sir.
Q. What about Florida?
A. No, sir.
Q. What was your agreement with respect to Mississippi? 9:41:30
A. Primarily the same as I have with Texas.
Q. $200 an hour?
A. $200 an hour.
Q. Okay. And I take it you're no longer doing work in Mississippi?
A. That's true.
Q. Okay. How much did you bill for your work in Mississippi?
A. Zero.
Q. Zero. You didn't put any effort in Mississippi?
A. No, sir.
Q. Okay. Aside from Mississippi, any other state that you've been involved in? 9:42:00
A. No, sir.
Q. Have you been asked to be involved in --
A. No, sir.
Q. -- any other state?

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A. No, sir.
Q. Anyone ask you about Florida at any time?
A. No, sir.
Q. Okay. So have you told me about all the work you've been retained to do in the Tobacco litigation? 9:42:
A. Yes, sir.
Q. Let's kind of work backwards on your resume --
A. Okay.
Q. -- starting with -- why don't we actually start with something that's not on your resume, which is your educational background.
A. Okay.
Q. Can you summarize that education since high school?
A. High school. I attended the University of Baltimore in 1959, 1962.
Q. And did you receive a degree? 9:43:0
A. No, I did not.
Q. What was the area of -- that you were studying?
A. Accounting.
Q. Why didn't you get a degree?
A. I got into the systems area. And at the same time I was going through my systems training, 9:43:3
and I said, I'll go back to school later

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because systems training at that time was relatively new and very detailed and very tough.

Q. Okay. Did you ever go back and get a degree?

A. No, sir.

Q. So post high school, you don't have any kind of degrees or -- how about any kind of certifications or licenses?

A. No, sir.

Q. How old are you?

A. 57 -- excuse me, 56. 9:44:0

Q. Okay. Looking at Page 3 of your resume, it says, "I held several positions early in my government career." Who was that with? Was that always with H -- starting with HEW or -- 9:44:3

A. That was the old HEW. I was with the Social Security Administration.

Q. And "inventory control clerk, purchasing agent," we'll kind of skip over that. And then you got into -- as a computer programmer in 1965? 9:45:0

A. Yes. I completed my computer programming class in 1962.

Q. And the work you were doing between '65 and '68 related to Medicare as opposed to

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Medicaid?
A. Well, part of that was Social Security program, the benefits program and part of was it was in the Medicare program. 9:45:30
Q. What in the Social Security program?
A. I was working in the area of accumulating quarters of coverage for social security benefits; in other words, you know, when you work and you pay your social security benefit, on a quarterly basis there's an amount of 9:46:00 money that comes into the Social Security Administration that gives you one quarter for determining your benefit when you reach 65 or become disabled or whatever, and I was in that area.
Q. Okay. Primarily working as a programmer, right?
A. Right.
Q. And then between '69 and '72 you were a Computer Systems Analyst Supervisor?
A. Computer Systems Analyst Supervisor. 9:46:30
Q. What were you really doing kind of day to day at that position?
A. Day to day, at that time, I was in the Third-party Liability Premium Collection

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Branch.

Q. For -- is that Medicaid or Medicare?

A. Medicare.

Q. Okay. And what were you doing? 9:47:0

A. I was programming and supervising programmers.

Q. Programs for what? I mean, what were they doing?

A. Programs for -- you mean hardware?

Q. Well, what were they doing? What were the programs designed to do?

A. These programs were designed to collect data for -- from third-party billing agencies that paid the premiums for Medicare. When Medicare 9:47:3(was established, they -- they allowed other agencies to pay premiums for people over 65 or for disabled or blind. And primarily these were welfare agencies where the State would buy in for those people that they had over 65 and paid their premiums for Medicare, so that Medicare would be the first payer, and teachers unions, and cities and Catholic church organizations and those kinds of 9:48:00 things.

Q. Okay. And then from '72 to 1990, I take it you moved to Dallas?

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A. I moved to Dallas.
Q. All right. And you started working for HCFA?
A. Right.
Q. Okay. Did you have different positions at HCFA during that time or was it the same position?
A. Primarily the same position. The reason I say primarily the same position, this statement may be -- may be misleading because there was no HCFA in 1972. 9:48:3
Q. Okay.
A. It was -- of course, in the government, we've had several reorganizations since 1972, but I originally come down with the Social and Rehabilitation Services Agency. And the Social and Rehabilitation Service Agency was a larger umbrella for the welfare program.
Q. Okay. When did HCFA start?
A. Gosh, I -- you know, late '70s. 9:49:00
Q. Okay. Well, let's talk about from '72 to 1990, the various -- well, positions you were doing and what work you were doing and how that changed over the years, if it did at all.
A. In 1972, as I stated earlier, SRS was a larger umbrella and it covered a lot more of 9:49:30

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the welfare areas; in other words, I mean this actually covered the AFDC portion and the Medicaid portion and there was another portion, long-term care -- they were -- they were kind of separated at the time. And then I was in charge of the systems for all of 9:50:0
those, overseeing that from a federal standpoint. Then when HCFA come along, HCFA carved out the Medicaid portion of Social and Rehabilitation Services, and then put that with the sister program Medicare. So then HCFA was responsible for the health side of welfare programs and Medicare.

Q. Okay. And you said HCFA probably was around 9:50:3(
1979, something like that?

A. It's -- it's in the late '70s.

Q. Okay.

A. Reorganizations, after a while, I mean, I had a lot of experience in it and I don't -- no reason to recall dates.

Q. Right. When you said you were in charge of this -- back -- this is basically 1972 to '79 when it was still the SRS as you described it --

A. Uh-huh.

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Q. That obviously dealt with a lot of other things other than just Medicaid, what were you doing? Day to day, what was your responsibilities? 9:51:0

A. Day to day, we -- I was the focal point for data processing with the states, and at that point in time, that was prior to a lot of the new system advances that we have today, whereas an agency would have dedicated equipment -- I mean, they would have their own computers and they would have their own peripheral equipment in all to run their program. And I mean the welfare portion had theirs and the medical portion had theirs and -- you know, all of the different groups had their own. And I was involved in approving that equipment and insuring that it was purchased for a reasonable -- on my competitive bids, there was justification for the equipment. 9:51:3 9:52:00

Q. And that's for all -- that's not just for Medicaid?

A. That's for all the --

Q. Different areas.

A. -- different areas were in the umbrella of

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SRS.
Q. Okay. And with respect to Medicaid, what were you doing between '72 and, let's say, '79 when HCFA came about?
A. Well, '72, there's not a lot of equipment requests that come in, and most equipment requests were directly related to implementing new systems. So I was assisting the states in, you know, implementing any new systems that were coming down the pike during that time. 9:52:3
Q. And how many states were you dealing with at that time period? 9:53:0
A. I had five states.
Q. Which states?
A. I had Texas and all of the bordering states, New Mexico, Oklahoma, Arkansas, and Louisiana.
Q. Texas, New Mexico --
A. Arkansas, Oklahoma, Lousiana.
Q. And who did you report to at that time?
A. I reported to a manager who was -- I think they were -- I think it was called the Division of Management within the Dallas regional office. 9:53:30

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Q. And the person's name; do you remember?
A. Bill McCutchin.
Q. Okay. So just so I understand it, basically where there were -- you had this agency that oversaw a lot of different type things, welfare programs, Medicaid programs, long term care, that type of thing, that you were involved when those particular states, the five states that you listed, were looking to purchase some kind of equipment that related to any of those programs that would go through you for approval and to review whatever bids they were going to be on it; is that a fair summary? 9:54:
A. That's -- that's fair.
Q. Anything else were you doing? 9:54:3
A. Well, let's stop -- it's equipment and software, too.
Q. Okay.
A. And also that which was developed in-house. I mean, this wasn't just limited to -- I mean the bid process was limited to that, which they purchased outside of --
Q. Right.
A. -- the department.

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Q. For example, if Oklahoma in-house developed some kind of software or program or something to deal with their welfare program, that would be something that you would review? 9:55:0(

A. Yes, sir.

Q. Okay. Aside from reviewing these equipment changes or software changes, was there anything else you were doing between '72 and '79?

A. That's -- that was my primary function, and that function just moved when -- when they had reorganization.

Q. Okay. So there was a reorganization. We're not exactly sure of the exact time, but it was probably around '79 in which the health care finance administration was created?

A. Right. 9:55:30

Q. And so that function that you had again reviewing equipment changes or additions for those five states was then shifted to the responsibility of HCFA?

A. That's true.

Q. Okay.

A. With only the Medicaid portion of the old welfare program.

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Q. Okay. Explain what you mean by that.
A. Well, as I said before, the old SRS agency was an umbrella for a lot of different services. 9:56:0(
Q. Right.
A. And when HCFA was -- when HCFA was born, I think the total reorganization, they shifted some of the responsibilities from the State to the Feds, I think the -- and I'm not sure of this, but I think that's when the government took over the aged and blind and disabled portion, the old -- the SSI program --
Q. Right. 9:56:3(
A. -- come in at that point in time. So then when I moved into HCFA, I just took the Medicaid portion of the responsibility with me into HCFA.
Q. Okay. And what other -- aside from the Medicaid portion, when you started at HCFA in '79, what other responsibilities did you have? Were you responsible for any other -- any other programs other than Medicaid? 9:57:00
A. At HCFA?
Q. Yeah.
A. No.
Q. So once you got to HCFA, it was strictly

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Medicaid?
A. Strictly Medicaid.
Q. Right. And did your duties and responsibilities change once you got to HCFA in 1979, other than the scope was now strictly Medicaid?
A. Not really, no.
Q. Okay. So you were still principally reviewing changes in equipment or implementations of new systems -- 9:57:3
A. Yes.
Q. -- whether software or --
A. The changing in equipment part reduced as technology increased because the only way -- the only time that you worked on equipment was when it was totally dedicated to the Health Care Finance Administration. And with the advancement of equipment, very little equipment now is dedicated to an agency. It's in an umbrella where a lot of different 9:58:00 agencies share it. I mean, the -- most states within their computer processes, they run everything from payroll to expense accounts and travel and everything from a central site. And part of that central site is used to

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process Medicare -- or Medicaid claims, so at that point in time, I didn't have a say over what kind of equipment you bought.

Q. Okay.

A. That went out into another agency and -- that oversees the entire department, to insure that -- that's still done, you know, in a competitive basis. And they went over the cost allocation procedures about how HCFA was charged its portion, or the State was charged its portion of those costs -- 9:58:30

Q. Okay.

A. -- for operating the entire system.

Q. So as I understand what you're saying, the way technology developed then, as of the time it got to HCFA, was that a state would have, for example, a hardware system that would relate to a lot of different things other than just Medicaid or what HCFA was involved in. And the approval process or review process of that state computer system would -- would involve a lot of other areas outside of HCFA that you weren't involved in? 9:59:00

A. Right.

Q. Okay. So once you got to HCFA, it became less

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of an issue of reviewing new equipment requests for state systems or new systems, and more software issues? 9:59:3

A. Right.

Q. Okay. So between '72 and '90, what else were you doing for HCFA now that you don't have to deal with new equipment anymore?

A. I think that was plenty.

Q. I'm sure it was. Can you tell us what it was though?

A. But -- no. What I had was plenty. The Medicaid arena at that time was very explosive, and there were a lot of systems developments going on. I mean, we had five states to work with and monitor, and most -- most of the time I was at HCFA, I was a one-man shop. So I had all five states that I had to support, and plus I had -- I mean, my regional office to support them, and special requests plus central office, so it was a -- it was a full-time job. 10:00:(10:00:3

Q. Okay. Well, you mentioned a number of things. One, you had -- you were a one-man person, so you were the only person during that time period who was working on basically systems

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development and software changes?
A. Yes.
Q. Okay.
A. At points in time they would have somebody come in to help me traveling and whatnot, have an assistant, but nobody trained in -- with systems or programming background.
Q. And the other thing you said you were involved -- and that was for five states you had to do that yourself?
A. Yes.
Q. Did the states kind of break out equally in terms of your time, or were some states requiring more time than others?
A. Some states are more active in areas and it would -- you know, it wasn't all at one time. I mean, all of them weren't implementing the same type of system at the same time until it was a mandate from the federal government. So -- I mean, it was a rotating basis and -- in all probability, I had more time associated with Texas than I did the others.
Q. Why is that?
A. Texas had more staff, and it's a better staff program, and they were more specialized.

10:01:

10:01:

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Q. Well, if they had more staff and were more specialized, why did you have to spend more time there? 10:02:
A. They had more questions.
Q. Questions related to what?
A. Systems implementation and design. You know, they may have come up with an idea and you say, "Well, that's blue sky" or whatever.
Q. What do you mean, "blue sky"?
A. It's -- it would be nice to have, but we think it's way too expensive and this is the reason we think it's way to expensive.
Q. Okay. So your involvement in this process was where there would be a new idea or -- about a change in a system, the state, whether its Texas or one of the other four states, would be asking the state -- the Fed to participate in the purchase of that? 10:02:
A. Yes.
Q. Okay. And that was a 75-percent share by the Fed or 50 percent?
A. Well, for development of HCFA-mandated requirements, the developmental cost is 90 percent, federal share.
Q. Okay. 10:03:0

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A. And the operational cost was 75 percent and that was HCFA-mandated MMIS only. Any other kinds of requests was matched at a normal rate, the normal rate at the state.
Q. Okay. What is -- can you give me an example of kind of a non-MMIS?
A. Well, I -- these were few and far between, and if they were putting in some kind of administrative-type software to take care of their internal billing or travel or those kinds of things. 10:03:
Q. Okay. Aside from working with these states, you said that there were also regional requests that you had to do, or regional work you had to do? 10:04:
A. Region internal office requests, yes.
Q. Can you give me an example of what that would be?
A. Well, if -- if one of the program directors was directed to go down and -- I mean from central office, or whether something triggered it in the office -- if they were going to go down and do a focused review and they needed data, they would come to me and ask me. You know, if, number one, if I had it, and number 10:04:3

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two, if I didn't have it, where to get it in the State. And I would assist them in making any kinds of requests like that because they weren't really familiar with, you know, the -- the claims operation.

Q. Okay. And anything else that you were doing, other than -- any other responsibilities and duties that were involved between '79 and '90?

A. No, no. 10:05:

Q. Well --

A. You didn't go over answering central office requests, but I'm --

MR. HART: Well, if you need to read your resume to refresh your memory, you can do that because he wants the complete --

MR. HAY: Right.

A. Yeah, I'm -- because -- I mean, we had some -- you know, some central office directives that -- 10:05:3

Q. Okay. Why don't you tell me about those.

A. Well, central office directives can come from anywhere. I mean, they -- they could be asking me as an individual because of where my area of expertise was versus the other regional-type people. They ask me in to -- to

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work on, you know, initial certification, specifications, or they would want me to, you know, to go in the state and look at a specific area or something like this. It could come down as a national request. 10:06:

Q. Okay.

A. And those kinds of things.

Q. What was your area of expertise that you would get -- the central office would look to you for?

A. Mainly in the claims processing area.

Q. What in the claims processing area?

A. Just claims processing, per se, in the regions because when they fill this Computer Systems Specialist job initially in 1972 --

Q. Right.

A. In -- well, Dallas was one of the regions. There are nine regions, or there were ten -- or there were nine and now there are ten. But the job was a -- a very broad job and the 10:06:3 areas of consideration were very broad. And a lot of the people that they brought in were working for, like, mainframe manufacturers, you know, your big IBMs, your Xerox and whatnot. And they may have been in sales or

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service or something, and most did not have a programming systems design background, where I had the programming systems design background. So in those areas, they would call me, and if they were talking hardware areas, I'm sure they call the other people in for those. 10:07:(

Q. You're talking about programs and systems designs for the MMIS system, right?

A. Yes.

Q. Okay. Was there any other computer specialist at the Dallas HCFA office while you were there?

A. No, sir.

Q. What types of central office directives were you involved in during that time period? 10:07:3

A. Back up -- I mean, that question you just asked before -- and I was going through this rather quickly. Now, when we started getting PCs in the office, they may have called some of those people computer assistants, but I don't know what their job titles were.

Q. Okay.

A. But, I mean, over in my functional area, I was the only trained systems person.

Q. Okay. All right. And my next question was,

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what kind of central office directives were you involved in between '72 and 1990? 10:08:

A. Central office directives?

Q. Yeah, you said you --

A. Well, I was involved in all of the certification reviews --

Q. You're talking --

A. -- in the region.

Q. Okay. All certification reviews in your region?

A. All MMIS certification system reviews.

Q. Just in your region or national?

A. In my region.

Q. Okay. And how many of those were there during that period of time? 10:08:3

A. I would say there -- upwards to ten because the state -- when a state implements a system, if the system gets stale or new technology comes along, or if the state law requires them to rebid it, they have to rebid it. And when they rebid it, they have to go through a certification again.

Q. Okay.

A. So some of the states we went through numerous certifications.

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Q. How many did Texas go through?
A. Texas went through -- I believe there were two certifications in Texas. 10:09:
Q. Were you involved in those?
A. Yes.
Q. When did -- and this is part of the -- this is not your normal day-to-day duties, but this is the central office directive they want you to be involved in the Texas -- this is the certification review of the Texas MMIS system?
A. Right.
Q. When did those occur?
A. The first one was probably in late '76, early '77. And the next one would have been -- I would say in the mid '80s. I don't recall the 10:09:
exact dates.
Q. Okay. And can you tell me what your involvement in the certification review in the late '70s -- '76, '77 was?
A. The initial coordination for the 10:10:0
certification, and then I was on site reviewing probably some of the front-end portion of the system, and also coordinating between central office and the -- and the state.

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Q. Okay, that was my first question. Coordination for the certification, who were you -- what is being coordinated?
A. If central office is not familiar with a local state system, and central office uses terms that are central office terms and state uses terms that are state terms, so you have to be an interpreter between the two. 10:10:
Q. Okay. And then -- okay. So you were the interpreter between Texas and the federal government there for a while in '76. What other role did you have in that certification?
A. I -- I don't remember the exact areas that I worked in, but I -- I do recall that in most of my certifications I worked on the front end. 10:11:
Q. Well, what does that mean?
A. Front end would mean from controlling the claims when they're initially received in the mail room through the portion of the -- of the MMIS that goes up in the claims payment.
Q. Okay. And what were you doing on that with respect to that? 10:11:3
A. I was --
Q. What's the review for?

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A. The review is to see if the state meets the requirements to get a 75 percent funding for operational costs.
Q. Okay. But -- I mean, how -- how do you do a review; what, I mean, physically, are you doing? What are you checking for, what are you --
A. We're -- we have minimum requirements that have to be met. 10:12:(
Q. Okay.
A. And we go through that during the certification to insure that -- that these minimum requirements are in place and are operational, and -- and they have to show proof that they are operational.
Q. Okay. And then I take it that there was one select area -- or this front end area that you were involved in, was there any other people involved in this or was that solely your area?
A. No, that -- they were central office staff. Central office has the final approval 10:12:3 authority on this, so there is always central office staff involved in any area that's -- that's reviewed in the certification visit.
Q. Okay. Now, let me ask you about the

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certification. Why did Texas need to have an MMIS system certified in 1976?

A. I don't know that Texas needed to have a MMIS certified in 1976. I think they chose to do that to take advantage of the -- the increase match that the federal government was offering. And they took advantage of that increase match to upgrade their individual or multiple claims processing systems. This was at a point in time where they saw that they had a -- it was a great benefit for them to take advantage of this increased spending that the federal government wanted to pay to help you design an up-to-date claims processing system. 10:13:(

10:13:3

Q. A better system?

A. A much better system.

Q. A system that would presumably do better in claims payment, in terms of not making -- not paying as many erroneous claims? 10:14:0

A. That's true.

Q. Do you --

A. And to take into consideration that there's some areas that are now processed manually and, you know, the federal government will

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help us in studying these areas, you know, will pay for it -- to study these areas and see if they can be automated. And so it expanded their systems.

Q. Okay. Was this the first -- strike that.

Let me ask you, are you familiar with whether or not Texas had updated it's MMIS -- strike that. Let me start from the beginning. 10:14:

When did Texas first have an MMIS system?

A. They were first, I think, initially certified in 1977.

Q. Okay. So this is the first MMIS system that they had?

A. Yes.

Q. Okay. So prior to that, they had some other system that was not considered a certified MMIS system? 10:15:0

A. They had a claims payment system. They were paying claims in an automated fashion at that time.

Q. But it wasn't a certified MMIS system?

A. No, sir.

Q. Okay. Did other states have certified MMIS

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systems prior to 1976?
A. I'm not sure when the first system was certified. I'm not sure -- you know, the exact dates.
Q. Well, approximately.
A. Well, there may have been one in '76. There may have been two in '77, or two additional ones in '77, and three in '78, two in '79, five in '80, you know, I mean, that -- 10:15:
Q. You just don't know --
A. I don't recall.
Q. -- sitting here today?
A. I -- I do recall that Texas was one of the earliest. And the reason I recall that is I got a performance award for -- for having my entire region certified, which was all five states. And at that time there were only 11 states certified in the country and I had five of them in my region, so -- 10:16:0
Q. And when was that; when were all five certified?
A. That would be in the early '80s, I think. Maybe --
Q. Was Texas the first to be certified in your region?

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A. I'm not even sure of that because I know we were working with Texas and New Mexico. And those -- you know, they come down one, two, you know. They weren't either certified on the initial visit. 10:16:3

Q. Well, what do you mean by that?

A. Well, you go in on a certification visit and when you review the system, you ask as many questions as you can and you gather as much data as you can. Plus you've had a lot of -- a lot of information furnished to you prior to the visit.

Q. Uh-huh.

A. So then you take all this data that you gather, and this is to show that you have the capability to do certain requirements and then -- actually shows that you have done it. You have to have some proof to show that you have done it, and to show when this was actually operational because you're certified the day your total system is operational. I mean, you can have the greatest claims processing system in the world, but if none of the other functions are working, you're not going to be certified. 10:17:0

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Q. Okay.
A. So they take this data back to Baltimore, and they review it, and -- and massage and do their deal with it. And they may come back and say, "Well, by the way, we need something else." And that may require them to do another on-site visit, or they may tell me to go down -- "Here's what we're looking for, you define it" -- you know, they define it for me. I would go down, pitch it out and forward it to them so they could make a review. So, I mean, they didn't -- they didn't go in, have the certification review, certification review team leaves and stamps it approved. That's not the way it was. 10:17:
Q. So do you know when their first MMIS system was certified? 10:18:
A. Well, certified, I think, in 1977.
Q. Okay.
A. But, I mean, this time frame, we're not talking about years in time frame of doing this.
Q. Okay. But the system that was certified in 1977, in your opinion, significantly improved the claims payment process from what it had 10:18:3

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been in 19 -- you know, prior to the certification?
A. Oh, I definitely think so.
Q. Okay. And is it fair to say that claims that probably were -- types of claims, or even just the volume of claims that were incorrectly paid previous to this new -- newly certified system were now being caught where they hadn't been caught previously? 10:19:0
A. I think so.
Q. Okay. Now, in -- the next thing you said is that there was another certification and -- when you said around 1985?
A. I -- that's -- that's the time frame I'm -- you know, I mean, don't hold me to these dates.
Q. Exact date, that's fine. As long as -- that's fine. As long as I want to, you know, get general time frame. Okay. Before we get to that -- well, strike that.
What -- why was -- did Texas have its MMIS system re-certified -- is it re-certified, or is it just a new system certified? 10:19:3
A. Well, they had -- they had to put in a new

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system. And when I say "they had to put in a new system" I think state law required them, "It's time to rebid this system." You know, this is not an ongoing contract with one -- I mean, if you're going to subcontract out and there have been some advances and we want to make some improvements in the system, so I think now is the time that we go ahead and rebid the system.

Q. Okay. Well, whose decision was that? The State of Texas? 10:20:(

A. That's the State of Texas.

Q. Okay, making the decision to rebid?

A. Right.

Q. Because of why? Because there were advances and a new system is -- is needed?

A. Well --

Q. Is that a "yes" or a "no," I didn't --

A. It could be "yes," and it could be "no."

Q. Okay. Well, what was it in Texas?

A. I mean, you gave me two options there.

Q. What was the reason in Texas?

A. The reason in Texas -- and I'm not sure that this fits in Texas, the contract may have expired. 10:20:3

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MR. HART: Well, if you don't know, make sure you tell --

A. No, I'm -- I don't know that -- I don't know for a fact --

Q. You don't know why they --

A. No, I don't know why that they rebid.

Q. Okay. That's fine. But they rebid?

A. Yeah.

Q. When you say, "the contract may have expired," what contract are you referring to?

A. Well, normally in the MMIS arena, you have fiscal agent contracts -- the states will contract with a fiscal agent, and the fiscal agent contract is for a specified time period.

Q. Okay. Was that true in Texas? Did they have a fiscal agent contract?

A. I'm not sure if it was a fiscal agent contract because that was under an insuring arrangement which is different from a fiscal agent contract. And I was not privy to the contract for the insuring arrangement because that's much -- that covers much more than the claims processing area.

10:21:0

Q. Okay. So you --

A. So that's the reason I say I don't know, you

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know, if there was an expiration date in there.

Q. Okay. Let's -- let's eliminate this insurance arrangement from your area of expertise right away. Are you -- are you saying you're not familiar with what the arrangement is, how that works?

A. The total contract with --

Q. Right.

A. Between Texas and NHIC? 10:21:

Q. Yes.

A. No.

Q. Okay. Did you have any involvement -- do you know -- strike that.

Do you know if HCFA approved -- made any kind of approval of that arrangement?

A. I think HCFA has to approve that.

Q. Okay. Were you involved in that --

A. No.

Q. -- at all, that approval process?

A. No.

Q. Okay. Have you ever been given copies of the contract, the NHIC contract?

A. I've seen portions of the contract.

Q. But no portion of it -- you're not relying on

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any portion of the contract for any of your opinions in this case? 10:22:

A. No, no, I'm not. No, I don't -- I don't have knowledge of the contracting area for the insurance arrangements.

Q. Okay. For whatever reason in 1985, there was a -- a re-certification or -- I guess my original question is: Is it a re-certification or a new certification? Is it a new system being put in or is it just re-certifying the old? 10:22:

A. It's a new system being put in.

Q. So in 1985, Texas put in a new MMIS system?

A. Yes, sir.

MR. HART: When you get to a good --

THE WITNESS: Is it time -- can we take a break?

MR. HAY: Oh, sure. Sure.

THE VIDEOGRAPHER: We're off the record.

(OFF THE RECORD)

THE VIDEOGRAPHER: It's 10:36. We're on the record. 10:23:0

Q. Mr. Lawson, did you review any deposition

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transcripts in -- prior to your deposition here today in this lawsuit? 10:35:4 10:36:(10:36:4

A. No, sir. 10:37:(

Q. Have you discussed the depositions of other witnesses with your counsel?

A. No, sir.

Q. Okay. We were just about to get up to -- all the way up to 1985, and that certification of the MMIS system. But before we do that, let me just ask you a couple more questions about the certification back in 1977. Can you describe for me what systems improvements were made by the implementation of that new MMIS system in '77? And by that, "improvements," obviously from what they had had in their previous claims processing system? 10:37:3

A. I can't describe their -- their previous system. I didn't know what their previous system consisted of because we didn't have to -- a review for that.

Q. Okay. So you don't know what -- what improvements over the previous system were being added by the -- the implementation of the new system in '77? 10:38:0

A. Specific improvements, I -- I can't identify,

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no.
Q. Okay. All right. In 1985, we talked about the fact that Texas decided to implement a new system -- a new MMIS system. Were you involved in the certification process then?
A. Yes.
Q. Okay. What was your involvement?
A. I was, again, a member of the certification team from the regional office and we assisted the central office in the certification. 10:38:
Q. And as I understand your testimony, this was actually a new MMIS system that was being implemented as opposed to a modification of the old, or is that not a fair description? 10:39:
A. It was a modification.
Q. Okay. It was a modification, it wasn't a whole new system?
A. Yeah.
Q. Okay. Can you describe for us what the modifications were?
A. No, sir.
Q. Why not?
A. Well, some may have been -- you know, in the technology end. Some may have been program expansion, additional automation. 10:39:3

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Q. When you say they "might have been," I mean, I thought you were involved in this process?
A. I was involved in it.
Q. Okay.
A. But I don't recall every instance that -- you know, that -- everything that was done in the system.
Q. Okay.
A. Functions may have moved from the state to the contractor and vice versa. Some of the functions that the contract was previously doing may have been brought back to the state. I don't remember all of those. 10:40:
Q. Okay. Is this the same system that's in effect now?
A. Yes.
Q. Okay. So wherever the functions were changed to, if that's what the change was -- where the modification was in '85, that's where they currently remain, or is that not true?
A. That may not be true.
Q. Okay. Because they could -- there could have been some other modifications subsequent to '85? 10:40:3
A. If they amend the contract. They would have

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to amend the contract.
Q. The contract with the agent, the state's contract with its either insured relationship or fiscal agent?
A. Uh-huh.
Q. Okay. Do you know, were there any technical improvements to the system back in eighty -- '85 that were added?
A. I don't specifically recall any.
Q. How about program expansion? You mentioned that as another modification. 10:41:(
A. I don't specifically recall any. I mean, I don't specifically recall the -- the change.
Q. Do you recall a change from something that wasn't automated to now being automated?
A. Again, you know, it's been a few years.
Q. Okay.
A. I don't --
Q. I'm not being critical, I just want to know what you know.
A. No, I don't -- I don't -- I don't recall it.
Q. Okay. So sitting here today, you don't remember -- can't recall any specific change that occurred in this modified system in '85? 10:41:3
A. No specific change, no.

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Q. Okay. Would it be your view that the change to the system in 1985 improved the system?
A. At least maintained the state -- the state that it was, yes, I would say that it improved some. 10:42:(
Q. Well, that's two different things.
A. Right.
Q. It either stayed the same or improved. Which do you think it did?
A. I know it at least stayed the same.
Q. Okay.
A. I can say that.
Q. Do you know if it improved?
A. No.
Q. You mean the federal government would pay for a new MMIS system that would stay the same and not improve the system? 10:42:3
A. You asked me if I knew what improved.
Q. No, I asked you if it improved.
A. If it improved?
Q. I didn't get to the question of what improved.
A. I -- I can't remember the specific changes. I -- the system definitely would have had to -- or there would have to be indications that it would improve for cost benefit

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analysis of designing a new system.
Q. Right. Otherwise the Fed wouldn't share in the cost of a new system if it wasn't going to improve the efficiency, claims payment, et cetera, of the old system; is that true? 10:43:(
A. Yes.
Q. Okay. That's the kind of analysis you, as a representative of HCFA, would do, whether it's worth spending the money to change the system; correct?
A. I was part of the team that reviewed, yeah.
Q. Right. And your conclusion was that whatever benefits or increased efficiency that were -- that were a part of the new system justified the new expense, correct? 10:43:
A. Yes.
Q. Okay. Now, I take it from your earlier comments that you can't describe for me how this new system improved over the old system?
A. That's true. I don't recall.
Q. Is it fair to say that it -- in doing your analysis as to whether or not to approve the system, that the type of improvement or upgrade of the system that you would be looking for would be an upgrade that would 10:44:(

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identify processing errors or problems better than the prior system?
A. Yes. 10:44:
Q. Okay. Do you believe that this new system in 1985, in fact, was better able to identify payment errors and other payment problems, better able than the earlier system?
A. No.
Q. You don't believe that, or you don't know if it was or it wasn't?
A. Rephrase your question. 10:45:(
Q. Okay. My question is, the system that was certified in 1985, do you know -- and I take it you've already -- well, strike that. Let me start all over.
You've testified that the 1985 system was a modification and, in fact, an upgrade, if I may, of the earlier system; is that fair?
A. That's fair.
Q. Okay. And that there was some benefit or improvement in the claims processing system by the implementation of the system in 1985? 10:45:3
A. Yes.
Q. Okay. Do you know whether or not the -- there

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was improvement in determining or identifying payment errors through the new system that was certified in 1985?

A. No.

Q. Was there -- is it something that you don't know or was there no improvement in that area?

A. I can't say that there was improvement in that area. 10:46:

Q. Because you don't remember?

A. I -- I don't know. It's not memory, but it -- I just don't know.

Q. Okay. Was it -- was the new system intended to improve the claims processing system and -- with the hope of identifying payment errors that previously had not been identified? Was that the intent, at least in part, of the new system? 10:46:

A. I -- I can't answer that question the way it's phrased and give you the answer, no.

Q. Okay. Well, what's the problem you're having with my phraseology?

A. Because there's an implication that when you change from one system to the next that it may be better, or that's the only reason you're changing it, you know, that there are many 10:47:0

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reasons to change the system. One being, you know, contract expiration.

Q. Well, I understand that -- in your testimony that the reason that the system was -- and as I understand your testimony, you don't know the reason for the system change, whether it was contract expiration or changing to a better system? 10:47:

A. That's true.

Q. Okay. So on that we're on equal ground. We don't -- no one here in this room apparently knows that. But my question is, in doing -- and I think you testified previously, in doing your analysis -- "you" being HCFA's analysis of this, if it was just because you were changing a contract, would HCFA pay for that --

A. Yes.

Q. A new system?

A. Yes.

Q. And sitting here today, you don't know whether or not that was the sole reason for HCFA's payment -- participation in the payment for this new system? 10:48:0

A. No, sir, I don't.

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Q. So it could very well have been that the system was dramatically changed in terms of becoming more efficient in the claims processing area?
A. Yes, it could.
Q. Okay. Is there any document that you're aware of that would tell us the reason for the change, or the reason for the need for the new certification? 10:48:3
A. Yes.
Q. And what would that be?
A. They would have to submit --
Q. "They" being who?
A. The state --
Q. Okay.
A. -- would have to submit an advance planning document to HCFA for a systems change.
Q. Okay. And what would be in that advance planning document? 10:49:0
A. Advance planning document would indicate the intent and reason that the state wants to make a change, and that they're going to request advanced funding for it.
Q. Would it describe the types of change that they were going to make?

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A. In very general terms.
Q. Okay. Well, I'll request a copy of the advance planning document to HCFA to this certification in 1985. I take it you haven't seen that document since -- since your involvement in this litigation? 10:49:
A. No.
Q. Okay. You may have seen it back in 1985?
A. May have.
Q. Do you recall seeing it back in 1985?
A. No, sir.
Q. Okay. Has the State of Texas -- you mentioned those two certifications that they've gone through, have they gone through any others that you're aware of? 10:50:
A. No, sir.
Q. Okay. Are there any other central office directives that you were involved in other than certifications during your tenure -- we were talking between -- well, I guess this is really when you were at HCFA from '79 to '90?
A. I -- I remember one other. 10:50:3
Q. What was that?
A. That was the SPR, Systems Performance Review.
Q. Okay. So that was a task that you were

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involved in through a directive from the central office? 10:51:0
A. Uh-huh.
Q. Okay. Were you involved in SPRs for all five states?
A. Yes.
Q. And this would be -- I believe you testified early '80s until 1990?
A. Uh-huh.
Q. At least at this position?
A. Yeah.
Q. And how many SPRs were you involved in in Texas during the period --
A. All that were done up to 1990. 10:51:3
Q. Okay. And sitting here today, you don't know how many they were?
A. No, sir, I don't.
Q. And you haven't seen any of those -- strike that.
What is an SPR?
A. A Systems Performance Review.
Q. And that is something reviewed -- performed by HCFA?
A. Yes, sir.
Q. Okay. You haven't seen any SPRs for the 10:52:0

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period 1979 to 1990, correct?
A. I've seen 1991 through '94 -- 1991 and '94, that's all.
Q. 1991 and '94 you've seen?
A. Right.
Q. Okay. Were you involved in the SPRs for 1991 and 1994? 10:52:
A. No, sir.
Q. Okay. For the SPRs -- and we'll limit it to Texas, that you were involved in between 1980 and 1990, for that ten year period, what -- what was your role? Or did it change? And if it changed for different SPRs, if you can tell me that, or -- 10:53:(
A. I was responsible for gathering the data and doing the analysis for the SPR. If I had a -- help in doing that, I assigned them specific areas and then reviewed their findings if errors were indicated. 10:53:3
Q. Okay. Did you have help on any of these SPRs or did you do it all by yourself?
A. I'm not sure, but I -- I'm rather comfortable that I had assistance in a couple of those SPRs. 10:54:0
Q. Okay. When you say "a couple," you -- does

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that mean all of them or, I mean, how many -- you don't remember how many?

A. No, I don't remember how many I did, but I had an assistant come on board -- and I don't remember exactly when that was either. But he would go on-site with me. 10:54:

Q. Can you tell me what the SPR process was, at least when you were doing it in the '80s with respect to Texas, what would -- you know, what would you do?

A. Well, we had an SPR guide that we followed. SPR guide is published by Baltimore, our headquarters.

Q. Right.

A. And this instructed us on how to -- to do the review. 10:55:0

Q. Okay. Well, I don't have the guide here, so can you tell me what you did?

A. Well, there were specific factors that they wanted reviewed. And then they would tell you how to go about this review and how to draw your sample.

Q. How many days did an SPR take -- or hours if that's a better way to describe it? And by that, I mean actually doing the review, 10:55:3

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reviewing data, et cetera.

A. I was -- I don't really have an exact number, you know, of hours. I would say that we would spend 250 to 300 man hours in the region to do that. I -- that's -- that's a guess. 10:56:0

Q. Just a guess? I mean, did you go down there for three weeks and just, you know, spend the entire time pouring over the system, or how -- I mean, did you go down there for a day and spend the day looking at the system and then getting data at the home office? I'm just trying to get a sense for what the process was. 10:56:3

A. Some -- some of the samples required a quarterly sample, so that would be two to three visits. Some we could draw on-site, you know, when we were there. Some we would request specifics so, you know, I --

Q. You have no idea of how many hours?

A. No, you really have to get an SPR guide and see the detail that goes into the sample -- sampling techniques to -- 10:57:0

Q. Was there any area of the SPR that you were particularly expertise in -- expert in as opposed to other areas, since I assume that it

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takes into account various parts of the program?

A. My areas were primarily in the -- you know, the front-end process. And, again, when I say front-end processing, I mean the data entry, the recipient-provider eligibility and the claims processing. 10:57:

Q. Wait a minute. The data entry, the recipient --

A. And provider.

Q. Eligibility?

A. The reference file.

Q. What's that? 10:58:0

A. That's the file that maintains the data on pricing.

Q. Okay.

A. Claims. And the claims processing.

Q. Okay.

A. And the management and administrative reporting.

Q. Okay. Those are the areas where you had more expertise than the other people who were working with you in this process? 10:58:3

A. (Witness nods head affirmatively.)

Q. You have to answer verbally.

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A. Yes, I'm sorry.
Q. She can't -- "shook head 'yes'" doesn't --
A. I'm sorry.
Q. What other areas did the -- did you assign others to deal with that, you know, were out of your expertise, if you will? 10:59:
A. Well, I normally had assistance in doing Surveillance and Utilization Review.
Q. That's commonly known as the SUR System?
A. SUR System.
Q. Okay. Any other areas that you had assistance? 10:59:
A. I would accept assistance any time I could get it.
Q. I understand that. But for -- and -- what I'm -- and I hope we're both on the same track here. I'm focussing on the S/URS -- I mean the SPRs that were done in the '80s on Texas. Was there other areas outside of the ones you mentioned that you said you had your expertise in? And then S/URS. Are there any other areas covered by the SPRs?
A. Well, some of the functions are central office responsibility. 11:00:(
Q. Okay. And which functions are those?

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A. Those would be your annual statistical report, and your quarterly drug utilization submissions. That's only two I recall right now. 11:00:
Q. Okay. Now, does that mean that you wouldn't have any involvement in those areas, that that would be handled at the central office, or is that -- it's handled at the central office and somehow you still have some involvement?
A. Those are submitted directly to central office.
Q. Okay. So that's kind of outside of your scope of responsibility totally? 11:01:(
A. Yes.
Q. Okay. We'll get back to the -- to the SPRs more specifically when we go through some of the documents, but are there any other central office directives that you were involved in?
A. I don't recall any specific ones.
Q. Okay. Let me ask you this. Does the SPRs include a claims processing assessment system 11:01:3
review? 11:02:0
A. No, sir.
Q. That's not -- and I'm not just talking about

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Texas, I'm talking about generally.
A. No, sir.
Q. Okay. Never has?
A. Never has.
Q. That's -- is that something reviewed separately?
A. Yes, sir.
Q. Okay. That's -- and we'll refer to it as CPAS, okay?
A. Right, CPAS.
Q. You understand that?
A. Yes.
Q. Were you involved in any CPAS reviews?
A. No, sir. 11:02:3
Q. Okay. Who would be involved in that?
A. Another branch of our office, of HCFA's office.
Q. Okay. How about Medicaid Eligibility Quality Control. Were you involved in that at all? 11:03:0
A. No, sir.
Q. That was also another area of HCFA?
A. Yes, sir.
Q. Was there an area of HCFA that was responsible for whatever fraud and abuse program that the states had implemented? 11:03:3

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A. No, sir.
Q. In the Medicaid area?
A. No, sir.
Q. Who would -- did HCFA not care about the states' Medicaid fraud and abuse detection and prevention mechanisms?
A. Fraud and abuse was done by the Inspector General's office at the department level.
Q. Okay. OIG that was? 11:04:(
A. Uh-huh.
Q. Okay. So some states I've seen -- and since you've been involved in Mississippi, you might have seen as well -- had to file quarterly reports concerning the state's program integrity units and what referrals and convictions, et cetera, that they --- and recoupments they had collected. Was that a requirement in Texas?
A. I don't know. 11:04:3
Q. You don't know? That was something that OIG would be involved in?
A. (Witness nods head affirmatively.)
Q. So is it fair to say that the SPRs really -- you know, didn't really address this fraud and abuse -- or HCFA's specific requirements

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regarding fraud and abuse detection in Texas?

A. Can you define "fraud?"

Q. "Fraud" being the intentional act to take money from the program that they're not entitled to. "Abuse" being -- just making the distinction abuse as -- without necessarily having the intentional criminal conduct. "Abuse" being utilizing and -- I guess as an example, putting down a code that is more favorable or pay a higher rate, as distinguished from actually, like, charging services that never were -- never were performed. An abuse would be having several people -- you know, having several visits when, you know, you could really only do it -- you could do it in one, that type of distinction, as I see it. I mean, is that a fair distinction in your mind for fraud and abuse, or do you have a different understanding?

A. No, that's a fair distinction. And the S/URS component of the SPR identifies abuse.

Q. Okay. Is it fair to say that the S/URS component of the SPR is the only portion of the SPR that deals with fraud and abuse --

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and/or abuse?
A. No.
Q. What other component of the SPR deals with fraud and abuse?
A. The claims processing areas would identify duplicates and conflicting tape data fields which, you know, are errors in claims so -- 11:06:
Q. Right. Those claims processing edits or audits that are involved, they're not specifically designated to detect fraud, are they? 11:07:
A. No.
Q. Okay. Are they specifically there to detect abuse, or just mistakes or errors in payment?
A. Yes.
Q. Which? Both -- or both?
A. Could be both. I mean --
Q. I mean are they designed to detect abuse, or do you know?
A. There are some designed to detect abuse.
Q. Okay. Any other areas, other than the edits, however many there are -- and do you know how many there are that are designed to -- in Texas, currently, that are designed to detect abuse? 11:07:3

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A. No.
Q. Okay. Who would know that in Texas? Who are the people in Texas would know what edits and audits have been designed in their system to ferret out either fraud or abuse? 11:08:
A. Contract monitoring unit.
Q. And who do you know -- I was --
A. The individual?
Q. Yeah.
A. I don't know who's in charge.
Q. Is that Tim Varian; do you know who Tim Varian is?
A. I know Tim Varian.
Q. Is it -- would he know that?
A. He's in the contract monitoring group.
Q. Okay. But would he know the extent that the contract monitoring group -- the contract monitoring group has designed any kind of edits or audits to ferret out fraud and abuse? 11:08:3
A. I don't know.
Q. Well, who better than Tim Varian?
A. I think -- I think you need to find somebody who's familiar with the edits and audits. 11:09:0
Q. How about Steve Scarborough, do you know who Steve Scarborough is?

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A. I know Steve Scarborough.
Q. Would he be a person who would know what edits and audits or -- or if, in fact, any edits and audits were designed to ferret out fraud and abuse? Would he know that?
A. He may.
Q. Okay. Do you know what edits and audits have been designed to ferret out fraud and abuse in the Texas system?
A. No.
Q. Okay. Were you involved in the scheduling and coordinating of -- or even the review of any Medicaid Eligibility Quality Control? 11:09:
A. No, sir.
Q. Okay. That was -- I mean, even the coordination of that is done by someone else?
A. Yes, sir.
Q. Have you ever seen the results of those quality control reviews? 11:10:0
A. No, sir.
Q. Okay. Moving up to between '90 and '95, you were a Medicaid Program Specialist. What's the difference in the position that you had?
A. Medicaid Program Specialist functions are much broader than -- than Computer Systems Analyst. 11:10:3

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A. There is a State Rep. This was called a State Rep Job.

Q. What is called a "State Rep Job?"

A. This job that I had from 1990 to '95.

Q. Okay. What state were you a State Rep for?

A. New Mexico. So we had a State Rep for each --

Q. Okay.

A. -- state and there was communication amongst the State Reps.

Q. As to what was going on in each state?

A. (Witness nods head affirmatively.)

Q. Okay. Who was the State Rep of Texas -- or is, he may still be?

A. Shirley Duncan.

Q. Is she still the State Rep? 11:13:0

A. No, sir.

Q. Do you know where Ms. Duncan is?

A. She's in the HCFA regional office.

Q. Okay. And what position does she have; do you know?

A. I don't know.

Q. Okay. What -- do you recall any discussions you had with Ms. Duncan or anyone else from Texas during this period, 1990 to '95, concerning Texas, these indirect contacts that 11:13:3

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you mentioned?
A. I don't really recall any specific.
Q. Okay. So is it fair to say between 1990 and today, you really weren't involved in any of the Texas MMIS system issues?
A. It was not a direct responsibility, right.
Q. Right. Well, are you familiar with any issues that came up during that time period? 11:14:0
A. No.
Q. Were you familiar with any results of any SPRs -- other than what you've learned at -- through your work in preparation for your opinions here? I mean, at the time were you in any way involved in the SPR process?
A. No.
Q. Okay. So then I take it that the SPRs that you're relying on, you have no personal knowledge as to what was done and even for that matter the results that were -- that were determined in those SPRs? 11:14:3
A. That's true.
Q. Let me ask you, referring to your resume -- the third paragraph under the 1990 to '95, you list here, "Part of evaluation process was to identify areas of state -- of the state 11:15:0

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program that needed to be reviewed." That's referring to New Mexico? 11:15:

A. Yes.

Q. So everything under this 1990 to '95, all the things that you say you were doing relates to New Mexico?

A. Yes.

MR. HAY: Can we take another short break? 11:16:

(OFF THE RECORD)

THE VIDEOGRAPHER: It's 11:33. This is Tape No. 2. We're back on the record. 11:16:3 11:34:

Q. Okay. You had previously told me that it wasn't part of your area of responsibility at HCFA to review CPAS for the various states in -- within your area; is that correct?

A. That's correct.

Q. Okay. Was it part of your responsibility to make any kind of review or evaluation of the Texas COMPAS system while you were -- at this time between '72 and '90? 11:34:3

A. No.

Q. Okay. That was -- was there some other agency -- some other group at HCFA that would

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be responsible for that?
A. Yes.
Q. Okay. And who would that be?
THE VIDEOGRAPHER: It's 11:34. We're off the record.
(OFF THE RECORD) 11:35:0
THE VIDEOGRAPHER: It's 11:36. We're back on the record. 11:35:3 11:36:4
Q. Okay. And I think my question was: Who at HCFA was responsible for the Texas COMPAS -- reviewing and analyzing the Texas COMPAS system, if anyone? 11:37:0
A. That would probably fall in the purview of the quality control office.
Q. Did they ever ask you for your -- any comments or analysis of the Texas COMPAS system?
A. Yes.
Q. How often did that occur?
A. It was an ongoing type --
Q. It was an ongoing --
A. -- ongoing type of interaction between that office and me. 11:37:3
Q. And who in that office were you talking to?
A. The quality control review clerks.
Q. And for what years was this?

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A. I don't remember the exact year the Quality Control come in to play in -- as an independent unit within HCFA. But there was a lot of interface between me and the quality control staff because they were dealing with the automated systems. So if they had questions, they would come to me. 11:38:(

Q. Their questions to you would be about the automated systems?

A. How to read files and, you know, formats and things of this nature, yes.

Q. Did they ask -- any other interaction, any other discussions with you in terms of the Texas COMPAS system?

A. More of -- you know, I was more of a resource person for them. 11:38:3

Q. Did you provide any analysis to them of your view of the effectiveness of the Texas COMPAS system?

A. No.

Q. Did they -- did they do any kind of written analysis of the Texas COMPAS system that you're aware of? 11:39:0

A. I'm not aware.

Q. Okay. Did they review Texas COMPAS every

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year? Did they do some kind of Quality Control on that every year?

A. I'm not sure of their scheduling, I don't know.

Q. Okay. Do you know, in any year, that -- what year they did it, if any year?

A. No.

Q. You don't know if they ever did it?

A. I'm sure they did it because they come and ask me questions, but I'm not sure as to what their total review was. 11:39:

Q. You don't -- do you know the extent of the review that they did?

A. No.

Q. Tell me what you know about whatever review they -- what review they did of the Texas COMPAS.

A. I can -- I can't speak to a specific review in Texas COMPAS from the QC standpoint. 11:40:0

Q. How about any standpoint?

A. Quality Control's function, when it was originally set up in the regional office, was to review claims processing systems to determine an error rate, a potential error rate. And depending on the results of these reviews -- whether they had to do more 11:40:3

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in-depth review, or whether they could skip a review period and do it every other year or something of that nature, and let the State develop its own claims processing review.

Q. Are you familiar with any Quality Control review done by HCFA of the COMPAS system, the results of any? 11:41:

A. No.

Q. And you don't know how often they did that?

A. No.

Q. And do you know any findings that they came up with in doing any Quality Control review of COMPAS?

A. No.

Q. Do you know if HCFA ever determined a claims payment error rate for Texas, for any year? 11:41:

A. I think that was a function of QC. I don't know what the error rate is, or was.

Q. And do you know if they -- well, do you know if QC -- do you, in fact, know whether or not QC determined an error rate -- claims payment error rate for Texas?

A. Do I know if they did?

Q. Yes. 11:42:0

A. It was a requirement that they did. I don't

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know that they did.
Q. Okay. Is it a requirement that they do it every year if they have an alternative to CPAS?
A. No, I don't think so.
Q. Okay.
A. Again, that might be a little bit out of my area of expertise here now.
Q. Okay. All right. Well, then that's what I want to know. So you don't really know what the HCFA requirements are for determining error rates for -- for CPAS or CPAS alternatives?
A. No.
Q. Okay. And is it fair to say you don't know the Quality Control requirements -- the HCFA Quality Control requirements for CPAS or CPAS alternatives? 11:42:
A. Rephrase that.
Q. Is it fair to say that you do not know and are not expert in the Quality Control requirements for CPAS or alternatives?
A. That's true.
Q. Have you ever seen the results of any kind of Quality Control review of the COMPAS system by 11:43:0

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HCFA?
A. No.
Q. And I believe you told me you don't even know if one exists -- if such a document exists?
A. That's true.
Q. Let me direct your attention to your statement of opinions, which is Exhibit 1. The last two pages of the exhibit address your opinions. First of all, have you seen what is stated at the top to be "State of Texas Expert Disclosure Statement and Opinions, Larry Lawson"?
A. Yes.
Q. Have you seen this document before?
A. Yes.
Q. Did you prepare it?
A. No, sir.
Q. Who prepared it?
A. I guess, Jim.
Q. Your attorney, Mr. Hart?
A. My attorney, Mr. Hart.
Q. Did you make any comments on it, or when is the first time -- strike that.
When is the first time you saw it?
A. This document?

11:43:3
11:44:0
11:44:3

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Q. Yes. Or a draft of the document.
A. This week.
Q. Okay. Were you involved in the process of preparing this document?
A. No.
Q. Well, have you had an opportunity to read the document? 11:45:(
A. Yes.
Q. Okay. Does this -- did you have any comments or changes to any draft of this document that you received?
A. I never saw a draft.
Q. Okay. So this is a document, as you saw it the first time, and you didn't make any changes?
A. Uh-huh.
Q. Is that true?
A. That's -- that's true. There is one point in here that --
Q. Okay. Well, I'll -- I'll get to that. Is this a complete and accurate statement of your expected opinion testimony? 11:45:3
A. Yes.
Q. Okay. Is there anything that you want to change in this now?

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A. There is one point in here that I think needs an explanation.
Q. Well, we'll get a lot of it explained, but which point would you like to have explained?
A. I'm sure we will. In the second paragraph --
Q. Right.
A. It says, "He will also testify the State's MMIS utilizes automated edits and audits to detect potential errors." 11:46:
Q. Wait. Wait a second. Let me find out where you -- in the second paragraph?
A. It's near the end.
Q. In the third sentence?
A. Yes.
Q. "He will also testify," right, "that the State's MMIS utilizes automated edits and audits to detect potential errors and abuses in order to effectively monitor in excess of 100 million claims per year"?
A. Uh-huh. 11:46:3
Q. Okay. What -- what do you want to clarify about that?
A. I think in -- in preparing this, we had thrown -- I mean, in conversation, we had used some numbers and 100 million would have been

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one of them. And I think 100 million -- the 100 million was the estimated number of claims that we processed in a year in my region, Texas, Oklahoma, Arkansas, New Mexico and Louisiana. 11:47:

Q. Okay.

A. And that Texas' portion of that number would probably be 55 to 65 million.

Q. Million claims per year?

A. Uh-huh.

Q. Okay. So as I understand it, in terms of preparation of this, you kind of talked to your attorney about the context of the -- the content of this -- of your opinions, even though you didn't have a draft of this? 11:47:

A. I was -- I had met with Jim on a couple of occasions and we discussed my background, and this was a product of that. 11:48:0

Q. Okay. The product of which you just saw the first draft this week?

A. Yes.

Q. First time this week? Okay.

A. First time this week.

Q. Okay. Any other changes that you want to make to this statement of opinions?

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A. No, sir.
Q. Are there any other opinions that you anticipate giving at trial that are not included in this statement?
A. If I'm asked for other opinions, I guess I would have to serve them. 11:48:
Q. Okay. But based on what you've been asked to do so far, do you intend to make any other opinions other than what's in here?
A. No.
Q. And I believe you told me you have completed your work that -- the work you feel necessary in order to render these opinions?
A. Yes.
Q. Let's start going through the specific opinions that you've stated here, paragraph by 11:49:0
paragraph. The first paragraph -- skipping the first sentence which talks about the fact that you're retired, it says, "Mr. Lawson will testify regarding the mandatory requirements of the Medicaid Management Information Systems (MMIS) as defined by the Health Care Financial 11:49:3
Administration (HCFA)." Do you see that?
A. Yes, sir.
Q. Is -- are you going to render any opinion as

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to that, or is that just fact material?
A. That's just fact material.
Q. Okay. And what's the nature of the testimony you're going to give?
A. I'm going to define the requirements of -- of a claims payment system in order to meet the MMIS guidelines as defined by HCFA. 11:50:(
Q. Have those guidelines changed over the years?
A. No.
Q. So whatever guidelines and requirements the HCFA had in 1977, are the -- they're the same as they are now in -- in here in 1997? 11:50:3
A. As published, yes.
Q. What do you mean, "as published?"
A. These guidelines were published in a general systems design package. It's seven or eight manuals -- pretty good sized manuals, just defines the requirements for a Medicaid Management Information System. 11:51:0
Q. And my question is, that those requirements have not changed over the years at all?
A. That's true.
Q. So new subsystems and things like that have not been added so that there is a new requirement?

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A. No, sir. That's true.
Q. That they haven't changed?
A. That they haven't changed.
Q. Anything else you're going to testify in that -- with respect to that area other than the requirements that haven't changed since 1977? 11:51:
A. No.
Q. Okay. The next sentence is, "Mr. Lawson will testify that Texas was a pioneer in development of MMIS." Do you see that?
A. Uh-huh, yes. 11:52:
Q. What's the basis for that opinion?
A. The basis for that opinion is that Texas was one of the first systems certified in the nation. It was one of the first ten certified in the nation.
Q. Are you relying on any documents for that opinion? 11:52:3
A. No, sir.
Q. Okay. Anything else, any other fact that you're relying on, other than that Texas was the first -- one of the first ten certified in the nation?
A. Would you rephrase that question, please?

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Q. Well, I take it that this is your opinion, that "Texas was a pioneer in the development of the MMIS system." And my question is: What is the basis for you saying that, other than the fact that -- one fact that you told me was that Texas was one of the first systems certified. Is there any other fact that you're relying on? 11:53:

A. No, that's --

Q. Okay. "Mr. Lawson will also testify that Texas' decision to develop and implement the MMIS was both fiscally and technically prudent." Are you relying on any documentation to support that opinion?

A. No, sir.

Q. What's the basis -- what facts form the basis of that opinion? 11:53:

A. It's based on my experience in the claims processing and systems areas.

Q. Well, what from your experience leads you to conclude that? What facts lead you to conclude that? 11:54:0

A. If it's cost effective to automate an operation, you know, it's -- it's generally more efficient to do that.

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Q. Is that what you mean by "fiscally prudent?"
A. "Fiscally prudent" also means that, for Texas, they receive the advanced matching rate to do this. 11:54:
Q. When you say "to do this," you're talking about the initial certification?
A. To develop an MMIS.
Q. Okay.
A. The developmental cost for the MMIS system was matched by HCFA at 90 percent.
Q. Is this opinion relating to the first certification, or the second, or both? 11:55:
A. This is a first certification.
Q. Okay. What do you mean by "technically prudent?"
A. I think I've previously tried to answer that in that -- you know, if you can identify a manual operation that can be done through an automated system and it's cost effective, I think that's the way to go. 11:55:3
Q. Okay. You "will also testify that Texas' MMIS system is a state-of-the-art claims processing and payment system and has been at the forefront of technological advances since inception." Are you relying on any facts for 11:56:0

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that opinion?
A. No.
Q. How about any documents? What -- what's the basis of the opinion?
A. It's based on my experience in claims processing.
Q. Well, what from your experience tells you that Texas is "a state-of-the-art in claims processing?"
A. Texas has adjusted rapidly to technological changes that would allow them to update their system. 11:56:
Q. Well, let me ask you this: Was Texas state-of-the-art in 1977 when they implemented the first -- it's first MMIS system? Was their system -- their claims processing system, prior to that time, state of the art? 11:57:
A. Prior to 1977?
Q. Yes.
A. I would doubt it.
Q. Okay. But your testimony is, as of 1977, they put a state-of-the-art system in?
A. Yes.
Q. That's correct? Okay. 1985, they got a -- they modified and re-certified, or newly

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certified a system. In 1984, the year before that -- they did that, did they have a state-of-the-art system? 11:57:
A. My experience would indicate yes.
Q. Okay. So it's your testimony that Texas in 1984 had a state-of-the-art MMIS system and yet HCFA paid for a new MMIS system?
A. Yes.
Q. Okay. What's the basis for you saying that in 1984, before they got a new system and the new 11:58: certification in '85, that Texas had the state of the art in MMIS?
A. Just my experience that they maintain a state-of-the-art system.
Q. Well, have you looked at systems in California or New York at or around 1984 to see how Texas 11:58: compared to them?
A. No.
Q. What other states have you looked at to compare Texas with -- as they were in 1984?
A. I had four other states in the region.
Q. Okay. And were any of those states equal to Texas in terms of the MMIS system?
A. No, sir.
Q. Okay. What about outside the region; do you

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have any knowledge as to what any other regions, states had in terms of their MMIS system? 11:59:(

A. I had general knowledge of -- of the systems, yes.

Q. Were there any other states that had a superior system to Texas in 1984 -- in any state, or do you know?

A. I don't know. 11:59:3

Q. So it is possible that other states, other than Texas, had superior MMIS systems to Texas in 1984?

A. Yes.

Q. How about today? Does Texas have the state of the art in MMIS system? 12:00:0

A. I don't know.

Q. Is the reason you don't know is because you haven't been involved in the Texas MMIS system since 1990? 12:00:3

A. I -- 1990?

Q. Right.

A. No, I've been involved more recent than that.

Q. Well, since 1995, have you been involved in the -- have you been involved in any way with the Texas MMIS system?

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A. No.
Q. Okay. Was the New Mexico system that you -- that was installed in 1991 superior or inferior to the Texas system, in terms of state-of-the-art MMIS? 12:01:
A. It was inferior.
Q. Okay. In what way?
A. The -- the New Mexico system was rebid and they continued to operate their old system.
Q. Okay. Did they eventually develop a new system? 12:01:
A. They were in the process of developing a new system, but they continued to operate their old system.
Q. Well, sure. I'm sure they didn't stop operating the MMIS system while they were developing a new system, right?
A. That's true.
Q. Okay. Do they now have a new system, "they" being New Mexico?
A. I -- I don't know for sure.
Q. Okay. Do you know if the current New Mexico system is superior to the Texas system? 12:02:0
A. I don't know what the new New Mexico system is, if it's new.

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Q. As a matter of fact, as of 1990, do you know what any other state outside of your region was doing in terms of the superiority to the Texas MMIS system?
A. After 1990? 12:02:3
Q. Right.
A. Yes.
Q. What states were you aware of?
A. I don't know about any specific states, but I still went to national conferences on claims payment systems, of which all states -- well, all states were invited and they would normally have 30 to 40 states participating.
Q. When was the last time you did that? 12:03:0
A. I don't recall.
Q. It was sometime before 1995?
A. Yes.
Q. Okay. And what at those conferences leads you to believe that Texas had the state-of-the-art in MMIS -- or was that not your testimony?
A. That's not my testimony.
Q. Okay. Let's approach it a different way. Strike that question. How do you know or -- is it your testimony that as of 1990, Texas had the state of the art in MMIS, if you know?

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A. Yes. 12:03:
Q. It is your testimony they did?
A. (Witness nods head affirmatively.)
Q. Okay. What's the basis of that testimony? What facts are you relying on to --
A. As I said before, they -- they took advantage of technological-type advances in computer systems.
Q. And they were making changes even after 1985?
A. Sure.
Q. Okay. So they were making some alterations that you were monitoring between '85 and '90?
A. Yes. 12:04:(
Q. Okay. What changes were they making?
A. In that specific time period or --
Q. Right.
A. -- overall?
Q. That time period.
A. In that specific time period -- now, again, you know, I'm not sure of the exact -- exact time period, but they implemented Automated Claims Control.
Q. What do you mean by that? 12:04:3
A. That's where they can accept claims as input from various data processing areas, meaning

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a -- you know, a personal computer, a telephone line, a hard disk -- you know, your little diskettes and discs. 12:05:(

Q. Okay. Any others?

A. Yes. They have -- they implemented an Eligibility Verification System.

Q. Tell me about that. What does that do?

A. This is where a provider can call on his office telephone and verify that the recipient that he's serving is Medicaid eligible for that period of time. 12:05:

Q. Okay. What others?

A. They have a point-of-sale technology for the drug program. 12:06:(

Q. What else?

A. Electronic Funds Transfer.

Q. And that would be -- can you explain what that is? 12:06:3

A. That's where they eliminate the writing of a check and the money is electronically transferred to the provider's designated bank.

Q. Okay. Any others that you can think of -- and these are modifications to the system between '85 an '90, approximately. 12:07:0

A. Yeah. They had -- they installed new

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microfilm and microfiche equipment for capturing claims.

THE COURT REPORTER: I'm sorry. 12:07:

For --

MR. HAY: Capturing --

THE WITNESS: Capturing claims.

THE COURT REPORTER: Thank you.

Q. What does -- what do you mean "capturing claims?"

A. One of the requirements for MMIS is to individually identify and be able to track a claim in the system. So when a claim is received in the mail room, they used to have a serial stamp that -- that you would stamp on 12:08:0 the claim, and then you would take it over and somebody would microfilm it. Well, the microfilm industry developed a technology where they put a serial stamper in the microfilm machine so that now when claims come in, you just feed them in the machine and it's automated for you.

Q. Okay. Any others?

A. I can't recall any now.

Q. How about while you were going to these 12:08:3

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conferences between 1990 and 1995, did you hear of any other changes that Texas incorporated? Or for that matter, are you aware of any other -- any changes that they incorporated, whether you learned that at the conference or otherwise, between '90 and '95?

A. No. I -- I don't -- I don't recall, no.

Q. What -- did Texas have the state-of-the-art MMIS in 1995 when you left -- when you retired from your position at HCFA? 12:09:(

A. I -- you know, based on what contacts I had with folks in the office and my previous experience, I would say they've maintained state of the art. 12:09:3

Q. Okay. Anything specific that you can -- any specific fact that would indicate that they -- other than these general conversations?

A. No, other than just general conversation and experience.

Q. You state here that, "Texas has maintained federal certification of its MMIS system throughout its existence." 12:10:0

A. Yes.

Q. Is there any document you're relying on for that?

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A. No.
Q. That's just something from your experience?
A. Yes.
Q. Okay. The next paragraph talks about, "Mr. Lawson's experience [sic] includes the design, development and implementation of MMIS 12:10:3
system in states for the management of the Medicaid Programs medical claims processing operations." And that's what we've discussed -- discussed previously, right; your experience in that area?
A. Yes.
Q. So I'm not going to go through it again. "Mr. Lawson will testify that Texas' MMIS has far exceeded the federal requirements throughout its existence and is an 12:11:0
effective" -- is that "tool"? I --
MR. HART: Yes.
Q. Okay -- "-- in the processing and payment of Medicaid claims." Is that your opinion?
A. That's my opinion.
Q. What -- are there any documents that you're relying on to support that?
A. No, that's based on the experience in the certification visits and the Systems

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Performance Review results.
Q. Has Texas MMIS ever been in violation of any federal regulations -- or out of compliance I guess is probably a better way of putting it with federal regulations?
A. I'm not aware of any.
Q. Are you aware whether or not Texas has been sanctioned for an inappropriate or unacceptable score on a Systems Performance Review?
A. Whether they've been sanctioned? What do you mean by sanctioned?
Q. Some -- sanctioned in the sense that they didn't get their full -- somehow penalized for failure to comply with certain federal regulations. So, you know, part of their -- the federal share has been withheld.
A. I don't recall any.
Q. You don't recall that happening back in the early '80s?
A. I know in the early '80s we had a problem with them, but I don't -- our office doesn't apply the sanction.
Q. What was the problem you had with them?
A. We identified a problem in the area of --

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individual Medicaid providers would have more than one number. 12:13:

Q. Tell me about that problem. What's the effect of that -- or why is that a problem?

A. It's a problem in that if you have a physician who has offices in surrounding communities, or services surrounding communities, that he, for one reason or another, asks for additional provider numbers for each location, and he was given provider numbers for each location. 12:14:

And from the standpoint of being able to gather all the claims for that individual provider under one number, that couldn't be done in that -- in the situation where you've provided more than one individual number. 12:14:3

Q. So -- and therefore there is difficulty in doing any kind of S/URS analysis or that kind of thing; is that true? 12:15:0

A. It makes it more difficult doing automated S/URS analysis.

Q. Right. You said that was recognized as a problem; do you know when that was?

A. That was in the early '80s.

Q. Okay. Was that something that in an SPR they were -- "they" being the state, was somehow

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given an unsatisfactory report?
A. Yes, sir. 12:15:3
Q. Okay. And your testimony is you don't know if they were sanctioned or not?
A. No, sir.
Q. Okay. Is it -- do you get involved in either recommending to sanction or not to sanction?
A. I get involved in issuing the results of the review, and that's all.
Q. Okay. And then someone else takes the review and decides what to -- what, if any, penalties 12:16:0
should be issued against the State?
A. Central office makes the calculations on the cause, whether they pass or fail.
Q. Now, did the -- did you, in fact, find the existence of individual Medicaid providers having more than one ID number?
A. Yes.
Q. Okay. Is that something in violation -- or out of compliance with HCFA regulations?
A. Yes. 12:16:3
Q. So at least in that instance, they weren't complying with HCFA regulations, correct?
A. That's true.
Q. And you found that and cited them in the SPR?

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A. Yes.
Q. Okay. Any other problems that you recall in your ten years of doing SPRs and monitoring the State of Texas, that problems in this same sense or in a similar vein that were -- showed a lack of compliance with State regulations -- 12:17:
excuse me, HCFA regulations?
A. No.
Q. By the way, does HCFA have regulations that are different than the MMIS regulations? By that, I mean do they have regulations that 12:17:
apply to different areas in the Medicaid program but don't specifically relate to MMIS?
A. Oh, yes.
Q. Okay. Are you an expert in the regulations outside the area of MMIS?
A. Oh, no.
Q. Okay. I just wanted to make sure that we're -- okay. You're here only to talk about the MMIS regulations and the Texas compliance with those regulations; is that fair? 12:18:0
A. That's fair.
MR. HART: Whenever you get to a breaking point --
MR. HAY: Okay. Let me just

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see where I am here.
Q. What's your basis for saying that the Texas MMIS is "an effective tool in the processing and payment of Medicaid claims?" Is there any documents you're relying on for that? 12:18:3
A. No.
Q. What facts are you relying on?
A. It's based on the experience in the industry and field.
Q. Well, what experience -- I mean, what facts about Texas makes it an effective tool for processing and payment of Medicaid claims?
A. I don't think this is just directed at Texas, if we're looking at the same statement. 12:19:0
Q. Oh, okay. Oh, okay. Maybe I'm -- oh, states -- when you say "the states" -- wait a minute, what am I looking at here? "Testify that" -- I thought you said that Texas' MMIS system far exceeded the federal requirements of Medicaid claims -- wait a minute. "Will testify that Texas' MMIS has far exceeded the federal requirements throughout its existence" -- which in one case we found that not to be true, at least in that one case. Correct? 12:19:3

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A. Yes, yes.
Q. Okay. And -- and is an "effective tool" in processing -- "in the processing and payment of Medicaid claims." Are you saying that you're not -- your opinion is not that the Texas system is particularly effective, but that all MMIS systems are -- or what is your opinion? 12:20:
A. Well, the MMIS system is an effective means for paying Medicaid claims.
Q. Is Texas' MMIS system any more effective than other states' MMIS systems for -- as an effective method of paying -- processing claims?
A. As compared to the other states in the region, I would say Texas is probably better than most. 12:20:
Q. Well, "probably better than most," is it --
A. It is better than most. 12:21:
Q. Okay. What about states outside the region; do you know?
A. I can't speak specifically to that.
Q. And why -- what about Texas' system makes it better than the other systems in the region -- Texas MMIS system?
A. It's -- it's maintained more -- you know, it's

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state of the art than some of the other systems are. 12:21:

Q. Do you know how effective Texas is in terms of the processing and payment of Medicaid claims? By that I mean, do you know an error rate for Texas as compared to other states in the processing and payment of Medicaid claims? You know, how many more errors Texas has than others? 12:22:

A. No.

Q. Okay. Not even the ones in your own region, correct?

A. Excuse me. That's correct.

Q. So isn't it possible that whether Texas is more state of the art or not, just even in the implementation, that, you know, one of the states in your region -- or was your region, might have less payment errors than Texas? 12:22:3

A. That's possible.

Q. And you don't know how Texas compares nationally with other states in terms of the effectiveness of its processing and payment of Medicaid claims?

A. No, sir.

THE WITNESS: Are we getting 12:23:0

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near a break?

MR. HAY: Yeah, we can --

THE VIDEOGRAPHER: 12:22.

(LUNCH RECESS)

THE VIDEOGRAPHER: It's eleven after 1:00. We're back on the record. 12:23:3

13:11:5

Q. Okay. Mr. Lawson, when we took our lunch break, we were talking about the second paragraph of your statement of -- disclosure statement and opinions. 13:12:0

MR. HART: Can you read that?

THE WITNESS: It's not real clear, but I --

MR. HART: Let me see if I --

MR. HAY: You have as good a copy as I do, this was faxed to me as well.

MR. HART: Let me see if maybe I have a clean one of those.

A. I mean, I'm familiar with -- I'm familiar with it probably more than you. I've seen it more than you have. 13:12:3

Q. Well, that is undoubtedly true. And we can read the specific sentence into the record and if there's --

MR. HART: Would you like one?

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MR. HAY: Sure.

MR. HART: I don't know if it's the -- yeah. That's the draft. If at a break I can find one, I'll see if I can get a bigger one.

MR. HAY: Okay.

Q. Anyway, I think we are up to the third sentence that says "He," meaning you, "will also testify that the State's MMIS utilizes automated edits and audits to detect potential errors and abuses in order to effectively monitor in excess of" -- and I take it you're changing that 55 to 65 million Texas' claims per year; is that -- is that what the sentence should say? I know it says 100 million. 13:13:

A. 100 million. It -- it should be -- yeah, Texas is in that range. 13:13:3

Q. The 55 to 65?

A. Yes, at least 65.

Q. Okay.

A. And that's -- that's a range.

Q. As of when?

A. As of when, I would say last year.

Q. Okay. How do you know that?

A. I -- you know, that's a wide range and

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that's -- you know, that's just guessing from growth that Texas programs had. I mean, the -- you know, it's a -- just normal things that go along with processing claims and -- 13:14:

Q. Okay. In that sentence, is there any -- is that a fact that you intend to testify to, or are you going to render some opinion about the fact that Texas MMIS utilizes automated edits and audits to detect potential errors and abuses in order to effectively monitor in excess of whatever number of claims per year? 13:14:

A. Well, that's an opinion and that's based on the -- on the results from our reviews, doing the SPR and the initial certification. On initial certification and the SPR reviews, we go in and -- and look at the edits and -- and see what -- what types of edits they have, the numbers of edits they have, and we look at the running cycles. And there is an edit status report at the end of each run that tells you if the edits are on or off. 13:15:0

And you look at the statistical reports that come out at the end of the -- the daily cycle, or weekly cycle, or monthly cycle, depending on what set of statistics

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you're looking at. And this will verify to you that, you know, the edits are running about the same percentages based on claims volume. Or if you see a -- a jump in an edit, it triggers you to look at the system, see whether it's a systems problem, or if it's a claims problem, or -- you know, maybe you've got a problem somewhere in your system. Or if you made any changes, it triggers you to look at something. If you -- anytime you see a spike or a decrease in your edit reports. 13:15:

Q. Well, what I'm -- first off, what I'm trying to understand is what's your opinion here that you're stating. That the State has -- utilizes automated edits and audits? 13:16:0

A. Yes.

Q. Okay. In order to -- are you saying that they effectively monitor it; is that your opinion? Or is it in order to monitor it -- I'm trying to understand where the opinion is here.

A. Well, it -- it's my opinion that the State does -- uses automated edits and audits and they monitor the use of these edits and audits to identify erroneous-type claims processing. 13:16:3

Q. Okay.

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A. We find it in the SPR, and we find it in the certification.
Q. Okay. Aside from the SPR that you were involved in, and the certifications, is there anything else that you're relying on for this opinion?
A. I don't know -- you know, how else you could rely on. I mean, what else do you have to rely on other than, you know, the actual experience of -- of reviewing the edits and audits. 13:17:(
Q. Okay. And you've actually, in your SPRs and certifications, reviewed the edits and audits to determine what they were and how they were being utilized?
A. Yes, sir. We -- we looked at the entire list of audits and edits.
Q. Okay.
A. And it -- go ahead.
Q. Since 1990, which is the time when you told me you stopped basically doing edits -- excuse me, SPRs and being really involved in Texas, is there any information that you have, or any facts that you have, that relate to this opinion -- other than the SPRs that you'd done 13:17:3

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previously?
A. Well, we've -- I looked at the two latest SPRs that were done in Texas in '91 and '94.
Q. Okay.
A. And --
Q. Aside from that?
A. Aside from that, no. I mean, that's -- that's my only really direct contact with the actual on-site review. But, you know, still in the regional office, we don't work in a vacuum. We do a lot -- you know, there is a lot of interface going on, and -- 13:18:(
Q. Well, have you discussed detail audits and edits? I mean, is that the type of thing that you would have done in the regional office in 19 -- between 1990 and 1995?
A. I would say we -- we had discussed that on several occasions. 13:18:3
Q. Okay. What edits have you discussed?
A. I can't come up with any specific edits. But anytime that -- that the -- Medicaid mandates a change down -- you know, they may expand the coverage in an area, or decrease coverage in an area, all of this -- you know, how is this going to affect, you know, the claims

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processing. And what affects one state one way will not necessarily affect another state the same way because you have two different systems. So, no, I'm -- you know, I'm still -- I'm still involved in some of the -- you know, the special-type items, but nothing -- you know, I mean, not on a day-to-day basis. I didn't call Texas and ask them how they're doing in the claims processing system. 13:19:

Q. From 1990 to 1995, you weren't involved in any kind of analysis or review of how they were doing on their claims processing?

A. No, not on -- not directly, but my opinion was asked on -- you know, certain items, and I can't recall exactly which item it was. But in the claims -- in the SPR, if -- if the on-site people doing that had a problem, I got the question. 13:19:3

Q. Okay. But you don't recall whether they did and you got a question?

A. I recall that I -- you know, I mean, I've answered questions in -- in the area of claims processing, you know, since 1972 in that office. I was the only one that was ever

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trained in that area. The person that's in -- in the area now -- and I don't know if the job titles even remain the same, but they're not trained -- a trained claims processor. 13:20:(

Q. Okay. But just so the record is clear, since 1990, you have not done any review or analysis of the claims processing involved in the MMIS in Texas, correct?

A. That's correct.

Q. Okay. And what you have done is you've reviewed these two SPRs that you've identified as part of the documents you're relying on, correct?

A. That's correct.

Q. And you have had some discussions about particular edit questions that may have come up -- or claims processing questions that may have come up in those five years, that you weren't directly involved in Texas, but there may have been times when questions came up? 13:20:3

A. There may have been times when questions came up and there may have been times when questions came up on those two SPRs too. I mean, I don't want to exclude those.

Q. Okay. But sitting here today, you don't have

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any specific recollection of any issue that came up either with respect to the edits and audits or with the SPRs? 13:21:0

A. I -- I can't -- I can't rule out that we -- we just never talked about them from 1990 -- or 1990 on. I mean, I can't -- I can't be specific. The normal conversation, normal office conversation, normal review practices that there -- that were done in 1991 and '94, I'm fairly comfortable that I had to, you know, look at some things that were involved in that -- in Texas and all the states. 13:21:3

Q. That's fine. I understand that.

A. Okay.

Q. And I understand your testimony to be that you probably, in your own mind -- was probably asked questions about the SPRs or about the audits during that period --

A. Yes.

Q. '90 to '95.

A. Yes.

Q. But sitting here today, you can't remember any specific issue that you were asked to comment on?

A. No.

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Q. And sitting here today, one thing you are sure about is that you weren't responsible, or in any way directed, to provide -- to perform any kind of review of the Texas MMIS system since 1990? 13:22:

A. I don't recall any.

Q. Okay. Have you ever made a review of comparing the Texas MMIS system and its edits and audits, and I take it this would be back in the 1980's -- strike that.

Have you ever made a review at any time comparing the Texas' MMIS system and its edits and audits and other states' systems with their edits and audits? 13:22:

A. I guess the point is that a lot of the edits and audits of -- of each system is directly related to the complexity of that individual system. Texas is one of the more complex systems, and it is much larger than any of the other ones in the region. And it handles -- I mean, it -- by taking advantage of all of the advanced state-of-the-art activities that they're involved in, they have more edits and audits than -- than the other states -- the other systems within the region. 13:23:0 13:23:3

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Q. What about outside the region?
A. Outside the region, I -- you know --
Q. If you know.
A. We keep bringing this up, about outside of the region. And I think a point that I should make is that Texas -- or in the Medicaid claims processing arena, there's been -- there was a need developed -- or decided back in the early '70s that, hey, you know, maybe we ought to get together and talk about this on a national basis. So HCFA, jointly with the American Public Welfare Association or someone like that, put on a national Medicaid Management Information System workshop. And -- 13:24:
Q. When was that?
A. Oh, this was in the early '70s -- '74, '75.
Q. Okay.
A. And I think the first one was in San Francisco. But that's where a lot of states were introduced to MMIS and there were training sessions. And now this -- this session -- I mean this meeting turned into an annual-type meeting. I mean we had it, you know, every year, different locations. And 13:25:0

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then it got to the point where you had a little more activity from the state size, that the state would make their presentations as to what they're doing, how they're handling this. You would have hardware and software folks there that are peddling, you know, what they're developing, what they have available, how you could use this. And Texas -- and I guess I've been to 15 of these sessions, and Texas is normally on the agenda big time too. I mean, they -- they make their presentations about their systems and -- and how they're going to handle this. And if we're looking at -- you know, these -- HCFA's up there or somebody from the department is up there explaining, "Okay, this is what we're looking at in the future." Well, Texas will look at that and say, "This is how we're planning on handling this." If it's coming down the way they say, so -- you know, there is a lot of -- a lot of expertise and a lot of experience and a lot of appreciation for the -- a system's size and complexity of the Texas system.

Q. Okay. When was the last time you went to one of those conferences?

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A. 19 -- probably 1990.
Q. Okay. Now, getting back to my specific question, which is: Have you made any analysis comparing the Texas system of audit and edits through its MMIS system, with that of any other state -- or other states? Just an analysis. I mean -- I know you -- and I'm not asking you about the fact that you may have talked about how edits are handled differently. I'm just talking about an analysis of these are the Texas edits, how do -- you know, what other states have edits like this, or what -- that kind of analysis? 13:27:0
A. Yes, yes.
Q. You have done that?
A. We have done that, yes.
Q. When was that done?
A. This would be done in a certification aspect or when we're getting ready to go down and do a Systems Performance Review in Texas or in another state, you know -- if Texas is doing this, why are they doing it and they're not doing it? 13:27:3
Q. And that you would be doing for your region?
A. Yes.

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Q. So is it fair to say that any analysis you have done only related to your region?
A. Any analysis I've done was related to our region. If we see something that we like in Texas, that we think that can be applied on a national basis, we will forward that up to 13:28:(central office. And if they feel like they want to disseminate this out to other states, or come out with some kind of an announcement that, you know, this is available, or, you know, Texas is doing this, you know, they feel free to do that.
Q. Okay. Well, that's fine. But my question is, in terms of any analysis that you have done has only been comparing one state's edits and audits with another, has only been within your region? 13:28:3
A. Yes.
Q. Has that ever been done in a formal document, a report?
A. I -- I don't know of any report that -- that would define Texas against the five states, or four states, no.
Q. Have you ever seen a report that discussed the edits and audits of other states outside your

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region so that you can compare that with Texas -- you know, a detailed report. These are the edits and audits of Illinois? 13:29:

A. No.

Q. That kind of thing?

A. I -- I don't think I've ever been involved in that.

Q. Have you made any kind of analysis to determine how effective the edits and audits that are utilized by Texas are in catching claims errors? Have you?

A. When we -- when we do our certification visits, and SPR visits and checks, we have to go in -- and when we're looking at the claims processing system -- and edits and audits are not only in the claims processing system. Edits and audits extend throughout the system. 13:29:

Q. Right.

A. I mean, when you get data in -- do I need to go into this?

Q. No, I understand that. But can you just answer my question, which is: What analysis have you done to determine the effectiveness of the edits and audits of the Texas MMIS system? 13:30:0

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A. When we go in and do an SPR -- I mean, we look at the daily and weekly and monthly runs, the work sheets from there or the run sheets from those. And on the daily run they have an error status report which tells you of any -- indicate our errors were turned on and off.

Q. What do you mean any edits were turned on and off? 13:30:3

A. Any edits were turned on and off.

Q. Right.

A. Did I not say that?

Q. You said errors were turned on and off.

A. Errors -- well, edits.

Q. It's nice to turn the errors off, but --

A. Turn the edits on or off. And, as I said before, you know, you get your statistical reports out of there, and we have to look at those to see if -- you know, if we can see any jumps or spikes in any edits or audit exception criteria totals. So, you know, yes, we do look at the -- the edits and audits.

Q. And that's -- and the certification and the SPR -- and we have those, or we at least have the -- some SPRs. So we know what, you know, when we'll go through those and we can talk 13:31:0

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about what you do there.

But aside from the SPR analysis that is done -- and the certification back in '85 when you were doing a new -- when you were doing a new MMIS, and back in '77 when it was due, are those the only times you do any kind of analysis as to the effectiveness of the edits and audits for the system? 13:31:3

A. Any time you review a claim for any reason, you're checking for edits and audits.

Q. I understand. I'm talking about the general effectiveness of the system as opposed to whether it picked up a particular claim.

A. That's what I'm -- that's what I mean, the general effect. If you're drawing a sample and you're looking at those samples of claims, whether you draw it after it's been paid or before it was paid, when you check the history of what happened to that claim, why it got 13:32:0 paid or why it didn't get paid, then you're checking the edits and audits and you're verifying that these edits and audits are working.

Q. Okay.

A. Or they're not working.

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Q. When do you do that? In the SPR context?
A. You do that in the SPR if you're doing a focus review. If QC is going down to do a --
Q. Okay. But my question is, when have you done that? You're not in QC so --
A. No.
Q. -- so QC -- so you don't know what QC did or didn't do? 13:32:
A. No. But if QC run into a problem, they come up and see Larry, too.
Q. Okay.
A. You know. So I didn't do every -- I didn't review every claim that QC pulled on their sample.
Q. Right.
A. But I can assure you that I assisted in, you know, the review, whether it was done on a quarterly or weekly or monthly basis.
Q. Or every four years?
A. Or every four years.
Q. Right. But my point is, I'm trying to understand what you've done, because you've told me you can't quantify or specifically state what QC has done in order -- in analyzing these claims. My question to you 13:33:0

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is, what have you done as part of your responsibility? Now you told me you did -- and, you know, I don't want to have us keep repeating the same thing. You've told me you've done these SPRs --

A. Right.

Q. -- in the '80s. That's fine. Put that aside, we're not going to talk about those at the moment. You told me that you've done these certification reviews. Put that aside, we're not talking about that. What other reviews have you done in which you analyze the general effectiveness of the edits and audits of the Texas MMIS system, if any? 13:33:3

A. There are a lot of program reviews that are initiated by other parts of Medicaid in the federal office that requires -- where they take a sample of claims or they're working a sample of claims and I'm normally the one that has to do that. 13:34:0

Q. Well, tell me with respect to Texas each and every instance where there was a program review.

A. I don't know that I can tell you each and every instance of where there was a program

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review. I remember where they would do program reviews on EPSDT. They would do program reviews on nursing homes. They would do program reviews on interactive drugs. They would do reviews on -- you know, many, many areas. 13:34:

Q. Well, what was the purpose of doing a program review on interactive drugs, for example?

A. I -- you know, the pharmacists and our Health Quality and Standards branch is the one that instituted that request. And I guess they're looking for problem areas where the system is not identifying or could be used to identify those recipients that are receiving drugs that have a possible interaction. 13:35:(

Q. Well, what is your involvement in these program reviews?

A. My involvement would be to inform them on how to pull -- you know, a sample. You want to pull it from paid claims or you want to pull it from claims before they enter the system. If -- if they're paying claims, have they been edited, have they been incorrectly denied. EPSDT is -- you know, doing it the same way. 13:35:3

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Q. Well, is this -- when you're assisting in this program review, are you doing it with the purpose of determining the effectiveness of the edits and audits, or is this for some other purpose?

A. I'm doing this for some other purpose, but any time you're looking at a claims history, you're looking at it with a -- an investigative eye to see if -- you know, if there is anything that stands out in this as to why, "You know, this appears wrong. What's wrong with this." 13:36:

Q. Okay. Have you -- let's start this way. Aside from the SPRs and the certifications, have you ever done any other system-wide analysis of the MMIS edits and audits and their effectiveness?

A. System-wide. Can you define system-wide? 13:36:3

Q. Well, the MMIS system. I just -- I just don't want to be in a situation where you're going to say, "Oh, yeah, we -- you know, we do an annual audit of the MMIS system, you know, as opposed to an SPR, as, you know, making a distinction."

I just want to know what analysis you -- when

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you were in that position at HCFA -- had done to determine the effectiveness of the MMIS claims processing? 13:37:(

A. On a total MMIS, system-wide, no. I would say the SPRs and the initial certifications are the prime areas where we're going to look at the edits and audits.

Q. Okay. And I may have asked you this before, but just in case I haven't: Have you ever made any kind of analysis to determine an error rate of the claims that were paid in error through the MMIS system in Texas? Paid 13:37:3 or not paid, incorrectly adjudicated? Have you ever tried to quantify that by an error rate? 13:38:0

A. I think I need you to rephrase that question for me.

Q. Okay. I'll start all over. Have you ever attempted to quantify in some way, either by determining error rate or some other way, the amount of errors that the Texas MMIS system does not -- had not identified, the payment errors that they -- you know, incorrectly paid, if you will?

A. (No response.) 13:38:3

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Q. Still confusing?
A. Maybe so.
Q. Okay. Have you ever tried to determine a claims payment error rate for the Texas MMIS system?
A. No. As I stated before, that was a function that was in QC area.
Q. Okay. So you haven't done anything independent of QC?
A. No.
Q. Okay.
A. Not in that area.
Q. Explain to me, does the State of Texas operate the MMIS system? 13:39:0
A. The State of Texas operates a portion of the MMIS system.
Q. Okay. What portion do they operate?
A. The State runs -- primarily the two largest claim volumes are drugs and nursing home.
Q. Okay. And who runs the rest of the MMIS system? 13:39:3
A. The rest of the claim types are run through NHIC.
Q. And are there subsystems within the MMIS system?

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Q. Okay. What did you do as of 1995 that were different? What were your duties and responsibilities?
A. I was responsible for the New Mexico State Program and its adherence to their Medicaid requirements in accordance with a State plan. 11:11:
Q. How long were you involved? I understand New Mexico implemented or installed a new MMIS system and you were involved in that installation.
A. Yes.
Q. Okay. How long -- how much of your time between 1990 and 1995 was taken up on dealing with that?
A. I would say five percent.
Q. Okay. What years were you involved in that?
A. Again, I don't remember specifically. I would say it was in '91, I guess. 11:11:3
Q. Okay. What, during the period 1990 to '95, were you involved in in Texas? What duties and responsibilities did you have with respect to the State of Texas in that position as Medicaid Program Specialist? 11:12:0
A. None directly.
Q. Okay. What about indirectly?

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A. Yes.
Q. And who runs those subsystems?
A. Some subsystems are run within their own program, and then some subsystems they both run.
Q. When you say "are run within their own program," can you give me an example so we can put this in context. 13:40:
A. Well, you take a provider subsystem.
Q. Yes.
A. There's little or no need for the NHI system -- NHIC system to have pharmacists or nursing homes on their claims payment system.
Q. Right.
A. So their provider subsystem is here and the State's subsystem is here. 13:41:0
Q. So the provider subsystem for the NHIC providers are maintained -- is maintained by NHIC?
A. Yes.
Q. And the -- for nursing homes and drugs, that's maintained by the State?
A. Yes.
Q. How about eligibility? Does it work the same, way, broken down between nursing homes and

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drugs for the State and --
A. Yes.
Q. -- acute care, if you will, for NHIC? 13:41:
A. Yes.
Q. How about S/URS?
A. How about what?
Q. How about S/URS? The S/URS subsystem, who runs that?
A. The S/URS subsystem is run on the -- after everything is done and that's back here, they're -- both systems are put together at that point in time, and that's run by NHIC.
Q. So NHIC runs the S/URS system even as it relates to nursing homes and drugs? 13:42:(
A. Yes, sir.
Q. How about the eligibility subsystem, or -- I guess it's the Medicaid recipient?
A. Eligibility file?
Q. Yeah.
A. They're two separate files.
Q. Okay. Broken down between NHIC and Texas? 13:42:3
A. Right.
Q. Going to the third paragraph, "Mr. Lawson was also responsible for federal oversight of ongoing operation of those systems and 13:43:0

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specific key functions including recipient, provider, and claims data entry through final adjudication and management reporting." I don't think that's an opinion, I think it's a statement of what your background was. But just so I'm clear, you were responsible in, I that guess, this would be up until 1990, for the -- what is the ongoing operation of those systems and specific key functions including recipient, provider, and claims data entry? What is that referring to? 13:43:

A. Federal oversight of the ongoing operation of the system. That's, you know, the total MMIS system as it -- you know, its effect to the Medicaid program.

Q. So you had oversight over both the State of Texas and NHIC?

A. Yes, sir.

Q. And what does it mean by "recipient, provider, and claims data entry through final adjudication and management reporting?" 13:44:0

A. Well, I don't know how you're reading this. This is "including recipient, comma, provider, comma, and claims data entry, comma, through --"

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Q. Oh, okay.
A. There's no comma there, but, I mean, those are three different systems.
Q. Okay.
A. And part of the review function and insuring that the system was operating efficiently and up to the standards, all of these file -- all of these subsystems had to be maintained by the State. 13:44:
Q. Okay. Just so we're clear here, let's go through those three systems, if you will.
A. Okay.
Q. "Recipient." That is talking about the eligibility files?
A. That's what I refer to as a recipient here, right. 13:45:0
Q. Right. Now in terms of your oversight of the eligibility files, is it fair to say that what that included was to make sure that the eligibility data that was received from wherever it was determined got into the system in a timely fashion?
A. In a timely fashion, right.
Q. Okay. You weren't involved in the initial eligibility determination, correct?

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A. No, sir. No, sir.
Q. You didn't have any oversight as to whether that system was good, bad or indifferent. Correct?
A. Correct.
Q. That was someone else's function to worry about, eligibility. It's just once the data got on to some data base, you became responsible for making sure that it was timely put into the MMIS system and was updated? 13:45:
A. That's -- that's true.
Q. Okay. So you wouldn't be determining whether or not there is, for example, eligibility errors or anything like that, in terms of an eligibility error rate. You would only be concerned with whether the data got on -- into the file on time? 13:46:0
A. That's true.
Q. Okay. "Provider's file," is that -- is that also true that you wouldn't be involved in whether the provider file information was correct; for example, that the -- strike that.
What was your responsibility regarding the provider file?
A. We oversaw the -- we oversaw that the provider

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file was timely and accurately maintained.
Q. So there were some changes in circumstances and some data indicated some changes, you were in charge of making sure that that data got inputted into the system in a timely manner? 13:46:3
A. Yes, sir. And accurate.
Q. And accurate manner. But would you be responsible for overseeing whether or not, you know, the data -- the provider falsified some information when he applied for initiation in the program, or is that something that -- 13:47:0
A. Any information that could be checked is checked. You know, if licensure --
Q. Right.
A. -- you know, if it's a provider that needs to be licensed, we check with their licensure. But, you know, we don't go out and look at names and addresses and see that they correlate to -- you know, the post office, you know, that extent.
Q. Okay. So you weren't there to verify the information, you were there to put it into the system and if -- and if the system through an edit or audit said there was something inconsistent or a problem, that's something 13:47:3

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you would look into. But in terms of actually verifying the basic information from the provider, that's not something that you oversaw?

A. We oversaw some portion of that verification, yes. I mean, like the licensure --

Q. Okay.

A. -- requirements. We -- you know, if it was a provider that needed a license or a certificate or something, that was checked.

Q. Because that would be checked through the system?

A. That would be checked before it's entered into the system.

Q. Okay. Manually? How do you check that?

A. If need be. 13:48:0

Q. Okay.

A. If need be.

Q. All right.

A. This is note a highly volatile file, you understand.

Q. Right. I understand.

How many providers are there in the State of Texas?

A. Oh, I don't know. I would -- it would be a

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real guess if I --
Q. Okay. You don't have to guess. And the claims data entry, through final adjudication, what was your role in oversight of that, your role being HCFA's role in overseeing that? 13:48:
A. Well, primary role here from the claims standpoint is, claims -- since the inception of the system, claims has expanded a great deal. Now, I mean, not only in numbers, but in identified claims. You know, if you've got -- used to be you just had a mail room there and you just picked up the mail once or twice a day, and you processed your claims. But any more, you know, you've -- as I mentioned earlier, you've got all electronic means of submitting the claims. Plus you've got your regular mail claims and you've got your crossover claims from the Medicare program. 13:49:(
Q. Right.
A. So one of the requirements from the MMIS is that when claims were received, they have to be entered in the system, you know, within the -- or controlled within the close of the next day of business. So if you get a claim 13:49:3

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in on a Friday, it's got to be under your control by Monday morning or Monday afternoon.
Q. Okay. The next sentence talks about "Mr. Lawson will testify that the edit and audits' features of both the Texas CPAS and MMIS including NHIC, State Operations and Surveillance and Utilization Review System are effective in identifying processing and payment errors." Is that your opinion? 13:50:
A. Yes.
Q. What is your opinion based on? First of all, what documents is it based on?
A. Well, it -- when we were looking at the initial certification and the ongoing SPR reviews, these things are checked and 13:50:3
rechecked and checked again, and -- to insure that they're operating within, you know, standards that have been established.
Q. Okay. Does the edits and audits' features of both the CPAS and MMIS systems identify all processing and payment errors?
A. If -- if I agreed with that, that would mean they've never processed a claim in error. 13:51:0
Q. Right.
A. I can't agree with that.

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Q. Do you know how many errors are not picked up by the -- either the CPAS or MMIS system?
A. No, I do not.
Q. Okay. But you're pretty confident that there are some errors out there that aren't picked up?
A. I -- I believe there is probably a unique situation that a claim would get through the process of the system. I think it would be a very tricky claim, though. 13:51:
Q. Would you also agree that the CPAS and MMIS systems do not identify all fraud and abusive claims in the system, or is that something you would have any expertise in knowing?
A. I don't know how you identify fraud in a claims processing system.
Q. Are you saying that you can't -- claims processing systems are ineffective for identifying fraud? 13:52:0
A. I'm not saying -- I'm saying that the claims processing system can identify abuse. I don't know that the claims processing system can identify fraud.
Q. Okay. Is it your testimony that the CPAS and MMIS systems identify all the abuse that's in

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the system? 13:52:3
A. I'm saying CPAS and MMIS identify abuse in the system, yes.
Q. Some abuse?
A. Yes.
Q. Not all of the abuse?
A. Probably not.
Q. Do you know how much is not identified, how much abuse is not identified?
A. If I knew what was not identified, it would be identified.
Q. Have you ever done any kind of a comparison to determine how much -- strike that. 13:53:0
Have you done any comparison to determine the relative effectiveness of Texas versus other states in the nation in terms of identifying processes and -- processing and payment errors through the CPAS and MMIS system? Have you done any kind of other state analysis, Texas system versus another state in identifying processing and payment errors? 13:53:3
A. I haven't done any analysis myself. I do know that there is a requirement that statistical reports are submitted to HCFA on an annual basis and it covers every claim that was paid 13:54:0

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by every state in the country. It's the 2082 report and --

THE COURT REPORTER: I'm sorry. Did you say 2802?

MR. HAY: Twenty eighty-

THE WITNESS: Two zero eight two.

A. 2082 --

Q. Right.

A. -- report. And I don't know if they do any bar charts or what off of that. I haven't seen that.

Q. Does the 2082 identify claims payment errors that are undetected?

A. That's an unidentifiable item.

Q. Okay. So that -- does it make any -- does the 2082 make -- from looking at the data on the 2082, can you compare Texas' effectiveness with other states in terms of claims payment errors that are not detected? 13:54:3

A. I'm -- the answer is no.

Q. Okay. So what is the 2082 show you that would -- that on a comparison basis you can look at Texas and other states in the area of its effectiveness of claims processing? 13:55:0

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A. I am not sure of every -- every cell that's in the 2082 statistical report, but it is broken down in a very detailed level. So I -- I can't -- I can't say that a specific type of analysis can be made.

Q. Okay. You "may also testify concerning the interface with other systems for eligibility, health, licensing and billing agencies." What does that testimony relate to? 13:55:3

A. That relates to the versatility of the system in that how it has to interface with other -- have the ability to interface with other systems. I mean, the eligibility, we've gone over that, haven't we? 13:56:0

Q. Well, how does it interface -- I mean, in terms of its ability to get the information that has been -- that has been obtained in the determination process, and get it on the system; is that what you mean?

A. Yes. Yeah. Well, it also -- they also interface with data they receive from agencies -- other agencies that determine eligibility. 13:56:3

Q. Okay. So if the eligibility information came, for example, from SSA --

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A. Right.
Q. As opposed to a state determination of eligibility --
A. Right.
Q. They interface there, that's what you're referring to?
A. Right. SDX file, yes.
Q. Now, the next sentence I -- is kind of a blur, so if your copy is better, maybe you can read it for me. 13:57:
MR. HART: You want me to read the next one?
MR. HAY: Sure, that would help.
MR. HART: "He is also familiar with the many daily, weekly, monthly and yearly reports generated by the MMIS system."
Q. Okay. Let me ask you about that. What kind of information is available from the Medicaid Recipient Profile data base; do you know?
A. You will have to be more specific with that question. 13:57:3
Q. Can you -- that's kind of the recipient or eligibility data base, right -- what I just described?
A. I -- I don't know. That's why I've having a

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problem.
Q. You've never heard -- you've never heard of the MRP file in Texas?
A. Is that the file that he uses in CPAS?
Q. No. That's the -- well, I don't know, you may use it in CPAS. That -- that I thought was the Medicaid recipient file. 13:58:
A. Medicaid recipient file? Okay. That --
Q. Okay.
A. All right. I'm sorry. I'm not thinking specifically of Texas in that area.
Q. Okay.
A. I was thinking eligibility file.
Q. Okay. Now, in that -- in that file, would they have -- would that include all of the -- for a particular recipient, all the claims information?
A. No, sir.
Q. It would not?
A. No, sir.
Q. What would be included in that?
A. In that MRP file?
Q. Yes.
A. That would contain his identifying information. I mean, you know, his -- his 13:58:3

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personal identification code, his name and address and -- and for Medicaid purposes, it will have the periods of coverage that they have for Medicaid. You know, they can be on for three months, off two months, on three months, off a month.

Q. Right.

A. So those periods of coverage are -- are on the eligibilitly file.

Q. Okay. Does the -- does the Texas MMIS system have the following information for the Medicaid recipients, such as the identifying information that you just mentioned, they would have that for each of the Medicaid recipients? 13:59:(

A. Yes.

Q. Okay. They would have periods of -- of eligibility when they're on again and off again?

A. Yes.

Q. Would they also have claims information dating back to some period?

A. No, there is no claims information on the eligibility file.

Q. Well, I'm not talking about just the

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eligibility file, I'm talking about in the Texas MMIS system. This says that you can talk about what kind of reports they can do. 13:59:
A. Yeah.
Q. If I wanted to find out from particular recipients what kind of -- what kind of claims they were making, does the MMIS system allow me to do that?
A. Yes.
MR. HAY: Okay. We need to take a break for a second while he's --
THE VIDEOGRAPHER: It's 1:59. We're off the record.
(OFF THE RECORD) 14:00:(
THE VIDEOGRAPHER: It's eight 14:08:2
minutes after 2:00. This is the beginning of 14:09:2
Tape No. 3. We're back on the record.
Q. Okay. We were talking about what types of information is available from the Texas MMIS system, and you told me about basically 14:09:3
identification information about each of the recipients. Would there also be claims information -- their history of claims in the MMIS system?
A. You can get history information. It's

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mandatory to have 12 months of history, but a lot of states have more than that. Texas has more than that.
Q. Do you know how long Texas goes back in terms of their history -- claims history? 14:10:
A. Automated history retrieval?
Q. Total. If I wanted to find out the claims history of some recipient, how far back is it possible to go?
A. It's microfilmed from the beginning.
Q. From the beginning.
A. I mean, you can go back to 1977.
Q. Okay. Would that -- and by claims information, that would also have kind of diagnostic code information --
A. Yes, sir.
Q. -- If you will? And treatment information as to what -- what procedures they went through?
A. With the procedures --
Q. Right.
A. Billed them out, paid them out?
Q. What drugs were authorized, that types of things -- 14:10:3
A. Yes, sir.
Q. Anything else on the system, other than, as we

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said, claims history, diagnosis, various procedures?
A. Place of service.
Q. Place of service?
A. Provider, date of service, or dates of service, units of service. Anything that's on the claim form is on the history with the exception of the English translation of the diagnosis or a -- a procedure. 14:11:0
Q. Okay.
A. Third-party liability indicators, third-party collection, year-to-date, month-to-date, a lot of data available. By county -- you know, I mean -- the way you can order data is limited by your imagination. 14:11:3
Q. Okay. Now, we were talking about your statement that the edits and audits feature -- features of the COMPAS and MMIS system are effective in identifying processing and payment errors. And as I take it -- what's the basis for your opinion related to CPAS, the CPAS system? 14:12:0
A. Well, CPAS uses primarily the same edits that the MMIS uses. Same edits and audits. I mean, they need to insure that the data they

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get in the system is clean and they audit against the history 100 percent. 14:12:
Q. Well, if they -- if it's the same edits -- I mean, there aren't any new edits in the CPAS?
A. No.
Q. Or COMPAS system?
A. No. It's my understanding that they're a duplicate of the systems edits that are in the claims payment system.
Q. Is it all of the same edits that are in the MMIS system?
A. No.
Q. So they're -- it's a select group of edits that are in the MMIS system? 14:13:(
A. Yes.
Q. Okay. Have you done any analysis as to how Texas' COMPAS system compares to other states, either COMPAS or CPAS alternative?
A. No, I haven't.
Q. Do you know how many other states use COMPAS -- a COMPAS system?
A. You mean the Texas COMPAS system?
Q. Right.
A. No, I don't really know how many other states, but I know that we had inquiries into -- to 14:13:3

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what Texas COMPAS does. Especially if -- you know, if we go to one of these meetings and they've made a presentation.
Q. Okay. But sitting here today, do you -- can you identify one other state that uses COMPAS?
A. Arkansas.
Q. Any others?
A. No. I mean, I don't know.
Q. So even in your region, only Arkansas was the -- was the only other state to use COMPAS?
A. Yes.
Q. When did Arkansas start COMPAS?
A. They've -- I don't think they've put the full COMPAS in. They're putting in parts of COMPAS. 14:14:(
Q. They're putting in parts of COMPAS now?
A. Now.
Q. They -- prior to that, they were --
A. Well, I mean now -- this was some time ago.
Q. In '95 or '90?
A. It would be between '90 and '95.
Q. Between '90 and '95, Arkansas started to use COMPAS?
A. Yeah.
Q. Okay. And, sitting here today, you don't know

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any other state in the United States that uses COMPAS?
A. No, sir.
Q. The -- starting at the last sentence on that page, "Mr. Lawson will testify that Texas was a pioneer in developing -- in the development of claims processing and assessment systems (CPAS)." What's your basis for saying that? 14:14:
A. My basis for saying that, that that's the alternate claims processing assessment system. And that's CPAS, I mean, that's COMPAS as Texas refers to it. I mean, they're the first one to do 100 percent review that -- that I'm aware of. The only one, even today. 14:15:(
Q. That you're aware of?
A. That I'm aware of.
Q. Okay. Well -- so I -- I guess this is -- I guess, in a sense, incorrect in that Texas wasn't the pioneer in developing COMPAS -- it wasn't the pioneer in developing CPAS, they were the pioneer in developing COMPAS?
A. Yes. 14:15:3
Q. Right. They're not only the pioneer, but they're still out there by themselves as the sole fully COMPAS system, correct?

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A. I -- I don't know of any other, but I don't know that that's correct.
Q. Okay. All right. The next sentence, "By monitoring the edits and audits procedures, NH" --
MR. HART: That should be "procedures of" --
MR. HAY: Okay.
MR. HART: So it will read correctly. 14:16:0
Q. -- "of National Heritage Insurance Company (NHIC), Texas'" -- this should be COMPAS or system -- it's not CPAS system, right?
A. It should be COMPAS.
Q. Okay. It says "CPAS." It should be "COMPAS system, is an effective tool in quality control of claims processing." How do you know that?
A. Well, HCFA, in monitoring the Medicaid claims payment systems, feel that the sampling 14:16:3 techniques employed in claims processing assessment systems is sufficient, you know, to determine whether a system is operating effectively. So if someone does other than a sampling -- especially if it's a larger -- and

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Texas does 100 percent, that, I think that would assure you that that -- in all probability is going to find more problem areas when you review 100 percent of claims than you will if you review a sample. 14:17:(

Q. Well, they're not reviewing 100 percent of all the edits, right? They're looking at all the claims, but not for 100 percent of the edits, correct?

A. That's correct.

Q. Okay. Again, are you an expert in the -- the benefits or the advantages and disadvantages of a sampling CPAS system versus 100 percent readjudication system? 14:17:3

A. Am I an expert in that?

Q. Right, the difference -- the advantages and disadvantages of that?

A. No, I guess I'm not an expert in that.

Q. Okay. The -- for that matter, are you an expert in -- as to whether or not COMPAS is an effective tool for quality control of claims processing? 14:18:0

A. I think in talking to the state and -- and reviewing some of the documents that have come out of COMPAS, I think it can -- I can say

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that I think it's an effective tool. And it's proven to be an effective tool by its statistics that it generates. 14:18:

Q. Well, it doesn't generate any statistics to tell you what -- how may errors it's not picking up, correct?

A. There is no way to identify an item that you're not picking up.

Q. Well, you can do a random sampling and determine what types of errors COMPAS is not picking up, correct?

A. I don't -- I don't know.

Q. What don't you know?

A. I don't know really what you said in that statement, so -- 14:19:(

Q. If you did a random sampling of claims, in -- as in a normal CPAS situation --

A. Yes, sir.

Q. And you had an individual review those claims to find out whether they were appropriate or not, isn't that the way, by the way, that most COMPAS -- that most CPAS systems determine eligibility errors?

A. Yes.

Q. Okay. And in that -- under that scenario,

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isn't it possible that -- or actually -- wouldn't that scenario, that random sampling, identify errors that -- that COMPAS has not picked up, if you know. 14:19:

A. I would say no.

Q. Why not? 14:20:

A. Well, as long as you're comparing apples to apples, I think that automation is definitely the way to go. Just the sheer volume.

Q. Well, I'm -- I'm not suggesting that automation is -- you know, claims processing edits and audits are not appropriate. I'm -- I'm talking about in terms of a quality control procedure to determine whether or not your edits and audits are working, whether they collect -- where they're identifying misdiagnosis, where they're identifying unnecessary services. My understanding is, in a CPAS situation, they -- they -- of a particular universe, they do individual analysis of those claims to see if, "Well, maybe we should add another edit in COMPAS, or -- or in the MMIS system." That's my understanding. And -- and is it your testimony that the COMPAS system is as 14:20: 14:21:0

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effective in picking up mistakes as a random sampling would?

A. Yes.

Q. And -- and what experience have you had comparing the two, if any?

A. It -- it's my own opinion, and I guess I'm not an expert in this. But any time that you do a 100 percent review, chances are you're going to find the error. 14:21:3

Q. Do you know how many edits and audits COMPAS does 100 percent review of, for each claim?

A. No.

Q. The next paragraph says that, "He will also testify that Texas' insurance arrangement with National Heritage Insurance Company (NHIC) helps to insure that appropriate scrutiny is placed on all claims processed by NHIC prior to payment." But I thought you told me you weren't familiar with the contract? 14:22:0

A. I think I told you I wasn't familiar with all of the contract. 14:22:3

Q. Okay.

A. I'm familiar with the claims processing portion of the contract.

Q. All right. Why don't you tell me about what

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facts -- well, first of all, what documents are you relying on for this opinion?

A. That would be the contract as I remember it.

Q. Okay. So you're relying on the contract as part of your opinion, the document itself?

A. My knowledge of that portion of the document, yeah. 14:23:

Q. Which contract?

A. The 1986 contract.

Q. Okay. What about any amendments or changes in the contracts since 1990?

A. I don't have access to those.

Q. Okay. So you're not aware of the provisions of the contracts that may have been changed since 1986? 14:23:

A. No, sir.

Q. What about the contract are you relying on; what provisions?

A. That portion that specifies that Texas will pay specific rates -- monthly rates for classified recipients to NHIC, and NHIC will be responsible for marking all payments for the services that are included in the contract. 14:24:0

Q. Okay.

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A. As an insuring arrangement.
Q. Okay. That -- that's the obligation of NHIC under the contract? 14:24:3
A. Right.
Q. Okay. How does that provide for scrutiny of the claims -- appropriate scrutiny?
A. At the end of the year, if the -- there is money left over from the premiums paid minus the -- I mean from the premiums paid to the contractor, minus Title XIX claimants paid, that the resulting dollars are split or shared with NHIC and the State. 14:25:0
Q. Anything else that, to your knowledge, insures appropriate scrutiny --
A. Well, if you call it --
Q. -- of claims by NHIC -- I'm sorry.
A. All of the edits and audits that we've mentioned before.
Q. What edits and audits from what system we've talked about, CPAS, COMPAS, MMIS?
A. The MMIS system. 14:25:3
Q. Well, does the insurance arrangement with -- strike that.
Are those edits and audits in the MMIS system something that couldn't exist

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without the insurance arrangement?
A. No, sir.
Q. They could exist without the insurance arrangement?
A. Yes, sir.
Q. Okay. So there is nothing about the insurance arrangement that affects the edits and audits that the -- is in the MMIS system one way or another? 14:26:(
A. Correct.
Q. Any other fact that supports this opinion that your view of the Texas insurance arrangement helps to insure appropriate scrutiny?
A. No, I think that's what I was saying there. This is not your normal run-of-the-mill fiscal agent type contract where you're paid on a per claim basis, so the order is to get the claims through. 14:26:3
Q. Have you ever compared the effectiveness of an insurance arrangement with a run-of-the-mill fiscal agent contract to determine which, on a empirical basis, has -- is more effective in processing claims?
A. No, sir.
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(marked for identification. 14:27:

Q. Let me show you what's now been marked as Exhibit 4 and ask you to take a look at that. And just for the record, Exhibit 4 is the Texas COMPAS -- COMPAS Annual Report, July 1989 to June 1990 -- 14:27:

A. Uh-huh.

Q. -- which is one of the documents that you've identified as what you're relying on, correct?

A. Uh-huh, I reviewed.

Q. Well, you more than reviewed. You're relying on this as -- as a basis for your opinions, correct? 14:28:

A. Yes.

Q. And I believe you told me earlier that the reason you're relying on this is for basic background information as to how the system works, to refresh your recollection?

A. To refresh my recollection.

Q. If -- direct your attention to the first page of the report, the introduction portion of it. And the first sentence references that the COMPAS system was approved by HCFA for implementation beginning October 1985? 14:28:3

A. Uh-huh. 14:29:0

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Q. Do you see that?
A. Yes, sir.
Q. Did you have any involvement in the certification of the -- or the approval process for the COMPAS system?
A. No, sir.
Q. What system was utilized prior to that?
A. I'm -- I don't know. I'm assuming that when you're looking at this sentence here, that this is alternate CPAS.
Q. Right. 14:29:3
A. So --
Q. So they -- they had an approval for an alternate to CPAS as -- beginning October 1st, 1985; is that a fair way to read that?
A. I think that's what that is.
Q. Okay. So prior to October 1st, 1985, were they using CPAS?
A. I assume so. I don't know.
Q. Page 2 of the document where you see -- it says recouped, received -- "Recoupment 14:30:0
Received." Do you see that?
A. Uh-huh.
Q. It's at "A."
A. Uh-huh.

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Q. "Recoupment for routine referrals," and there's a $7 million number?
A. Uh-huh.
Q. And "Retroactive Part A Medicare recoupment" of almost $600 million?
A. Uh-huh.
Q. Excuse me, $600,000. Do you know -- well, first of all, that then totals to a total recoupment for referrals of over 8 million dollars. 14:30:3
A. Uh-huh.
Q. That's $8 million in errors, basically, that COMPAS has found, payment errors; is that fair?
A. Okay.
Q. Okay. Do you know -- strike that.
I -- do you know how many payment errors COMPAS didn't find above the 8 million? 14:31:0
A. No, sir.
Q. Okay. The -- isn't it true that what this is saying that -- that Texas, after running the Texas MMIS system with all it's edits and audits and doing a second review by COMPAS, they found over $8 million in errors that weren't picked up by the MMIS system? 14:31:3

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A. Yes.
Q. Okay. And as a matter of fact, the next column talks about payments that should have been honored but weren't honored under the MMIS system and that's another almost $6 million dollars; is that correct?
A. That's what I read.
Q. So it's a total of $14 million in errors, what they describe as "Net Business," or mistakes in the claims processing by MMIS? 14:32:(
A. Yes.
Q. Okay. Now, do you know from this document or any -- strike that.

Do you know what the -- what caused any of these errors? And we'll start with the recoupment from routine referrals. 14:32:3
A. Not without going back and looking at the -- the documents that were generated to produce these numbers, no.
Q. And that's not in the report, correct?
A. No.
Q. Okay. Have you ever looked at the documents that were generated to produce this?
A. I've looked at -- at some of their summary runs, Bob showed them to me.

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Q. Who showed them to you?
A. Bob Tyndall.
Q. Oh, okay. This was -- I thought we had another attorney here. This was back when you were still working for the State -- still working for HCFA? 14:33:(
A. Uh-huh.
Q. And there would be a breakdown as to what the errors -- what caused the errors in some fashion?
A. Yep.
Q. Was that a "yes," I'm sorry?
A. Yes.
Q. Okay. But that's nowhere included in this report, is it?
A. No, sir.
Q. Does this report have a corrective action plan as you would normally expect a corrective action plan under CPAS which tells you what they're going to do to try and avoid these errors in the future?
A. I think it does, yes. 14:33:3
Q. Can you point that out to me?
A. It's -- I think they refer to it as a RIMS and --

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Q. Just tell me --
A. RIMS and ROUTS. That would be Page 34.
Q. Well, doesn't Page 34, in terms of the -- which is under COMPAS corrective action plan, doesn't that just describe their system as opposed to identifying what errors were in this one year period that they're reporting on identified and how they're going to change that? 14:34:(
A. Yes, sir.
Q. Okay. So this isn't really a corrective action plan per se in terms of describing what errors were found and how they are going to correct it, it just tells you what systems are in place to make corrections?
A. Yes, sir.
Q. Do most CPAS annual reports have actual corrective action plans in which there is a study of what the errors were and how they are to be corrected in the future? 14:34:3
A. Yes, sir.
Q. Isn't that a federal requirement?
A. Yes, sir.
Q. But because COMPAS is an alternative to CPAS, they don't have to do that; is that correct or

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do you know?
A. I think they still have to do that.
Q. Okay.
A. But I don't know. The answer to that is no.
Q. Do you know if there is some other document that has just a specific corrective action plan that the State of Texas has filed which indicates where their problems were in claims processing and how they're going to make corrections? 14:35:0
A. I don't know.
Q. By the way, you've -- you've testified you've looked at a number of these COMPAS reports, correct? 14:35:3
A. Yes, sir.
Q. In any of those reports, have you seen a description, as I've been asking about for this one, of the specific types of errors that have occurred and the plan for correcting those in the future? Have you ever seen that in any of the reports that you've referred to, or that you're relying on, or you reviewed?
A. Could you repeat that question?
Q. Okay. For -- for each of the reports that you're relying on and reviewed, have you ever

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seen in these COMPAS reports a description of the various errors that make up these -- in this case, the $14 million in errors and how the State is going to -- or what action the State is going to take to correct those? 14:36:

A. No, sir.

Q. I take it sitting here today you don't know what the -- the reason for any of the $14 million in errors were for that back in 1990? 14:36:

A. No, sir.

Q. Okay. And you don't know what, if any, action Texas took to make changes to its system to prevent those errors in the future?

A. No, sir.

Q. Do you know what percentage of the claims processed in the Texas MMIS system are actually reviewed by a human being as opposed to subject to all these edits and audits automatically? 14:37:0 14:37:3

A. No, sir.

Q. Do you know what percentage, if any, of the claims that are readjudicated by COMPAS are subject to human review?

A. Would you repeat that one again?

Q. Do you know what percentage, if any, of the 14:38:0

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claims reviewed by COMPAS are actually reviewed by a human being as opposed to just subject to the edits and audits in the computer system?

A. No, sir.

MR. HAY: Would you mark this as the next exhibit.

(Deposition Exhibit No. 5 (marked for identification.

Q. I will show you what's now been marked as Exhibit 5 and ask you to identify that, please. Is this the Exhibit 5, the COMPAS report, that you're relying on for your opinions that's mentioned in Exhibit No. 1? 14:38:3 14:39:0

A. Yes.

Q. Okay. And I -- I believe you told me previously you're again relying on this for more of a general background as to how the system works as well?

A. Yes.

Q. Is there any other fact that you're -- you intend to utilize to support your opinions based on what's in this Exhibit 5?

A. No, sir. 14:39:3

Q. And directing your attention to Page 2 of the

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exhibit. In this year, the total mistakes or errors that COMPAS identified from the MMIS system was roughly $30 million dollars; do you see that? 14:40:(

A. Yes, sir.

Q. Do you know the nature of any of those mistakes or errors?

A. No, sir.

Q. That's quite a jump from the $14 million last -- the year before, correct?

A. Yes, sir.

Q. Okay. And the report apparently attributes -- or attempts to attribute the dramatic increase to "expanded Texas Medicaid, and a marked 14:40:3 increase in deliveries (newborns) and -- and the efforts of a dedicated and talented COMPAS staff," which means -- I take it to mean they worked harder and found more mistakes by MMIS; is that what that means, the last phrase, how they were able to find out the $30 million? Or do you know --

A. I --

Q. -- what it means -- what they mean by that?

A. I have to read into that what it says. 14:41:0

Q. Well, what do you read into it?

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A. It seems like they're drawing attention to their work here.
Q. Well, the -- the size of the Texas Medicaid program didn't double in size, right, as far as you know, between 1989 and 1990?
A. I'm not aware of it.
Q. Okay. And -- but the errors that the MMIS system made and that were identified by COMPAS did double in size? 14:41
A. (Witness nods head affirmatively.)
Q. Okay. What do you -- what do you attribute that to?
A. I -- I don't think I have the ability to answer that.
Q. Okay. Are the edits in the COMPAS system constantly being changed and evolving, to your knowledge? 14:42:
A. I don't know.
Q. You don't know how often they're changed?
A. No.
Q. You don't know how often they're modified or updated?
A. No.
Q. Do you know if there's a -- a HCFA requirement or federal regulation that the State must 14:42:3

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refer to the Medicaid fraud control unit any instance of suspected fraud or abuse?
A. I don't know of one.
Q. Do you know how many referrals from -- to either the State program integrity unit -- which I believe is the sanction unit, or the Medicaid fraud control unit were made from the -- based on COMPAS analysis? 14:43:
A. No.
Q. In any even given year?
A. No.
Q. Do you know how many referrals were made to -- to either of those units, either the sanction units or the Medicaid fraud control unit based on S/URS reviews? 14:43:
A. No.
Q. Is that something that you would ever look into or analyze in any way? Is that part of your responsibility to see how many --
A. No.
Q. -- referrals there are?
A. No.
MR. HAY: Would you mark this as the next exhibit. Yeah, you can give it to him. What is it? What number?

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(Deposition Exhibit No.6
(marked for identification.
Q. Let me show you what's now been marked as Exhibit 6, and ask if you can identify that for the record. 14:44: 14:44:
MR. HART: Do you have an extra one of those, John?
Q. What's the last page number on that?
A. The last page number is --
Q. The document production number.
A. -- SPR021.
Q. 21? Okay.
MR. HART: Thank you.
Q. Can you identify that document for the record?
A. Can I identify it? 14:45:(
Q. Yes.
A. Sure.
Q. I probably could, but --
A. This is a letter to Diane Friedholm from Phil Koether's cover letter covering the SPR performance for 1994 in the State of Texas.
Q. Okay. And as I understand it, this is one -- another one of the documents that you're relying on --
A. Yes, sir.

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Q. -- for your opinion. And you did not participate in this SPR as I understand it? 14:45:
A. I did not participate on-site in this SPR.
Q. Okay. So in terms of your personal knowledge, it is -- as to what happened in this SPR, that's solely contained in this document -- well, you don't have any personal knowledge, your -- all your knowledge is based on what's stated in this document?
A. Yes, sir.
Q. The -- the cover letter -- well, starting with the cover letter, the third paragraph talks 14:46:(
about, "The most serious deficiency affecting the State's score involved the failure to submit drug rebate quarterly utilization data in a timely manner." Do you see that?
A. Yes, sir.
Q. Is that a federal -- and by that I mean a HCFA requirement, some kind of timing for the submittal of drug rebate quarterly utilization data? 14:46:3
A. I think there's -- there is a time limit on State submitting that.
Q. Okay. So this is another example of a violation of HCFA regulations, correct?

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A. HCFA requirements.
Q. Requirements? What's the difference between a HCFA requirement and a HCFA regulation?
A. I think when we -- my definition of a HCFA regulation is a -- a regulation that's published in the Code of Federal Regulations for the Medicaid program. 14:47:
THE COURT REPORTER: I'm sorry. Code of --
THE WITNESS: Code. The Code of Regulations.
Q. And a HCFA requirement is -- how is that different?
A. HCFA requirement is a -- a requirement that is of lower authority and submitted by, say, a central office agency.
Q. Is there some manual that tells me what are requirements and what are regulations? 14:47:3
A. I think anything that you find in the State Medicaid manual is a requirement. Anything you find in the Code of Federal Regulations is a regulation.
Q. And what's the -- what's the difference, in effect?
A. In effect, the Code of Federal Regulations

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have a lot more impact than a requirement.
Q. In what sense?
A. In priorities. The Code of Federal Regulations outlines a situation and then the state Medicaid manual defines how you meet that requirement. 14:48:0
Q. Well, let me ask you this. If this -- if this problem that's identified or -- or failure to meet this requirement, as you've described it, continued and became more egregious, is that a -- is that a sanctionable offense?
A. Yes.
Q. Okay. And it's not meeting the minimum standards set by HCFA, correct? 14:48:3
A. That's true.
Q. Let me take you to -- and it's Document Production No. SPR00007, which has the SPR Performance Standards. Do you see that? 14:49:0
A. Yes, sir.
Q. Okay. And then there is eight standards here. And what I would like to just kind of understand is -- for a few of these, and we'll start with eligibility. It says, "An accurate system of recipient eligibility information must be provided." And this is what you're 14:49:3

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testing for in the SPR?
A. For Standard 1?
Q. Right.
A. Yes, sir.
Q. And, just so we're clear, we've -- and I don't want to go through it again, but we discussed this is not a -- a determination as to whether or not the eligibility determination is correct, but just whether the eligibility information has been timely put into the system?
A. Yes, sir.
Q. Standard No. 6, operation -- "The operation of a S/URS must provide comprehensive health care delivery and utilization data for program management, reveal potential defects in the quality of care and reveal suspected instances of provider or recipient fraud or abuse." Okay. That -- that's the standards for SPRs. Now, what do you do for SPRs -- in the SPR process to determine that? And by that -- I mean, I'm not talking about necessarily the '94, which I know you didn't do, so you couldn't tell me what they did to determine that. But when you did the SPRs in the '80s,

14:50:(
14:50:3

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what -- what analysis did you do, or review did you do, to determine whether or not the Surveillance and Utilization Review Subsystem Performance Standards were being met?

A. Well, the Systems Performance Review Guide outlines your -- your methodology for processing -- or for doing the review for each factor. 14:51:(

Q. Uh-huh.

A. Now, you would have to look at the specific Systems Perform Review for that year to determine what was done to test for Standard 6 --

Q. Okay.

A. -- in any state.

Q. Is it -- it's possible that they could do nothing to test for it in a given year; is that correct?

A. If Standard 6 was a required area to be reviewed, you would review it in accordance with your -- your current Systems Performance Review. 14:51:3

Q. How do you determine whether it's a required area to be reviewed?

A. The Systems Performance Review Guide is a

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dynamic document and it changes from year to year. One year something will be reviewed, and the next year it may not be reviewed.

Q. Okay. But is it -- is that totally arbitrary or is there any rhyme or reason to when something is going to be reviewed or not reviewed? 14:52:0

A. That's not a regional office decision.

Q. Okay. All right. In any event, for the SPRs that you -- you participated in in the 1980s, what S/URS reviews did you make? What did you do to -- to do a Surveillance and Utilization Review Subsystem test? 14:52:3

A. We followed the guideline as to -- or the guide as to how we -- we perform the review. I mean, the guide gives you specific instructions on -- on what to do and -- for checking in certain areas. So, I mean, this is not a one time -- you know, you do everything the same way all the time situation.

Q. Okay. It is not, or --

A. It is not.

Q. Okay. So -- 14:53:0

A. The guide can change from year to year.

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Q. Okay. Well, I don't have the guide and I certainly don't have each edition of the guide. So what I'm asking you is, based on your memory, what did you do in the S/URS area to determine the SPR Perform Standards if you did it? If someone else did it, tell me that.
A. I -- I think for the most part someone else did it.
Q. Okay. So, for the most part, you didn't do it. Sitting here today, you don't know specifically what they did other than that they followed the guide? 14:53:
A. Followed the guide.
Q. And you don't know what the guide required?
A. I don't recall what the guide required.
Q. Okay. Is there a requirement that you -- that each state do a certain number of non-institutional S/URS analyses, or investigations?
A. I'm -- I'm not aware of it.
Q. Okay. Is there a requirement that each state in their -- in their -- do a certain percentage of institutional S/URS runs? 14:54:0
A. I don't know.
Q. Okay. Do you know in doing the S/URS

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performance -- or checking for the S/URS Performance Standards in the SPR, if the person doing the SPR would look into how many investigations were initiated from S/URS? 14:54:

A. If that was an area defined to be reviewed by the SPR guide, that would be looked at.

Q. But you don't know if that was looked at in -- in the case of Texas?

A. I don't know if that was looked at in the case of Texas.

Q. Who sets the S/URS parameters?

A. Rephrase that.

Q. Who sets the S/URS parameters? The S/URS system is a system, as I understand it, 14:55:0 that -- that identifies outliers based on some parameters in the system; is that not correct?

A. You mean the -- yes.

Q. Okay. That -- that is correct?

A. I didn't know if we would change from the SPR or not, that's all.

Q. No, I'm talking about S/URS, right.

A. Okay.

Q. Okay. But it is correct that S/URS is a system that basically looks at claims information and -- by different provider, and

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based on some -- you know, tries to identify some outliers; is that a fair summation? 14:55:3
A. That's a fair summation.
Q. Does -- is it HCFA or is it the State of Texas that establishes the S/URS parameters?
A. The State.
Q. Okay. Does -- as part of the SPR performance review, does the -- does HCFA review any of the parameters to determine their appropriateness?
A. I don't know.
Q. Is it fair to say that, with respect to S/URS at least, you're not familiar what exactly the SPR review process is, in terms of what they're really looking for and they do? 14:56:0
A. I'm --
Q. Other than to say they do what's in the manual, but you don't specifically know what was in the manual at any given time?
A. That's true.
THE WITNESS: Is it break time? 14:56:3
MR. HAY: Sure.
THE WITNESS: Can we take a break?
(OFF THE RECORD)

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THE VIDEOGRAPHER: It's 3:06. We're back on the record. 14:57:(
15:07:(

Q. Okay. We were talking about the S -- Systems Performance Review for 1994. And I'm going to take you -- and we started talking about the standard -- the Performance Standards. Now I'm going to take you quickly through the Performance Review. I'm not going to ask you about every line.

A. Okay.

Q. But I will ask you about a few things. 15:07:3
Looking to the specific SPR factors, if you will -- Factor 3 is the "Accuracy of the Provider Master File." Do you see that?

A. Yes, sir.

Q. By the way, this is -- these factors are basically 33 factors that are the factors that go into the SPR Performance Standards?

A. Yes, sir.

Q. Okay. For Factor 3, is the Accuracy of the Provider Master File -- there was no review 15:08:0
done in '94 for that, correct?

A. Yes, sir.

Q. Factor 5, "Unique Provider Identifiers," there was no review for that in '94?

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A. Yes, sir.
Q. Factor 6, "Rendering Provider numbers for Group Practices." There was no review for that?
A. Yes, sir.
Q. Price File/Fee Schedule, what is that? That's -- that's the updating of the pricing changes in the file? 15:08:3
A. Yes, sir.
Q. There was no review of that in '94?
A. That's true.
Q. You have to answer -- shaking your head doesn't work. Factor 9, "Accuracy of Institutional Payments," and that is to determine whether the State is paying at the proper and approved rate?
A. Yes, sir.
Q. And that was not -- that was not reviewed in '94? 15:09:0
A. That's true.
Q. Now, Factor 10 talks about "Claims Control and Identification." And what is this about? What does this factor relate to?
A. This is to insure that the claims are entered into the system with a unique identifier on a 15:09:3

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timely basis. And with this unique identifier, this means that when the system enters -- when the claim enters the system, it can be easily identified as to where it is.

Q. And this -- Factor 10, in this particular year, '94, indicates that three claims out of the sample of 20 were not controlled in accordance with the requirements, correct?

A. Uh-huh.

Q. Those are HCFA requirements that -- that control that? 15:10:(

A. Yes.

Q. Okay. Is this a -- is this a requirement or is this a regulation?

A. This is a standard.

Q. Standard?

A. This is a standard that claims are -- are entered into the system in a timely manner.

Q. Okay. So it's fair to say that -- it's more than 10 percent of the sample were incorrect?

A. Yes.

Q. Okay. And despite the fact that more than 10 percent of the sample for this item were incorrect, the State of Texas did pass this SPR; correct? 15:10:3

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A. Yes.
Q. Why didn't MMIS or the COMPAS system pick up this error, if you know?
A. This sample is taken outside of the claims payments system. In other words, this sample was drawn either before or in the mail room when it was actually received. 15:11:(
Q. So this is -- well, wait a minute. I thought you were testing the MMIS system here. Why would you test the MMIS system outside of what the MMIS system is doing?
A. One of the requirements of the MMIS is to receive and control claims in a timely manner. So when the claim gets in the mail room, that it doesn't just stay there forever, or a box that's sitting over there, it's controlled immediately. 15:11:3
Q. But that's something that should have been controlled by the MMIS system but wasn't, correct?
A. Correct.
Q. Is it something that also would be part of the edits and audits of the COMPAS system?
A. No, sir.
Q. This is one of the examples of things that

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COMPAS doesn't address? 15:12:
A. This -- this cannot be addressed systematically.
Q. Okay. So if this was run through COMPAS, this wouldn't show up as an error?
A. No, sir.
Q. The next, Factor 11, "Control and Entry to the System of the EMCs." What is EMCs?
A. Electronic Media Claim. 15:12:
Q. And that was not addressed in -- in '94, correct?
A. That's true.
Q. The Item 14, "Timeliness of Processing Claims Other than Clean Practitioner Claims."
A. Yes, sir.
Q. What's a "Clean Practitioner Claim?"
A. I think the definition a Clean Practitioner Claim is a claim that you receive from the provider with no errors or no need to have -- have to contact the provider for additional information. 15:13:0
Q. Okay. And the results of this monitoring, which was done in '94, "Three non-practitioner clean claims out of a sample of 23 non-practitioner and non-clean practitioner

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claims were not processed within the 30 -- within 30 calendar days." And then it identifies the numbers of the particular claims. Is processing those within 30 days a standard or requirement of HCFA? 15:13:

A. That's -- that's another of the standards that -- set forth from the MMIS.

Q. Okay. And this is just a situation where the MMIS did not process it within the 30 days, or is this a situation where someone had to look into the claims and that wasn't done within 30? 15:14:

A. I can't tell from this.

Q. Factor 16, "Presence of Duplicative Claim Edits in the System." And that wasn't -- there was no analysis done '94 about duplicate claims?

A. That's correct.

Q. And that -- and in 17, "Resolution of Suspected Duplicative Claims" also wasn't done? 15:14:3

A. That's true.

Q. Okay. "Correct Use of Turnaround Codes," what's an Edit Turnaround Code?

A. If you have an error condition in a claim, and

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through the system's logic it determines that that needs to be looked at by manual intervention -- 15:15:(

Q. Right.

A. That after the person has reviewed the claim -- they have some operational manuals that guide them into how to process this claim, and if they go ahead and review the claim, they can either fix the situation if it's a fixable one, or override, or -- or deny the claim at that point in time, manually, and put it back in the system. And then it goes 15:15:3 in the next cycle.

Q. Okay. And - but for this year, 1994, there was no analysis done by HCFA as to whether or not the State was doing that correctly?

A. That's true.

Q. Okay. Correct -- Factor 19, "Correct Use of Force Codes." They -- I take it a Force Code is overriding an edit?

A. Yes, sir.

Q. Okay. And the correct use, I assume, means that, was a person authorized to do it and -- 15:16:0 under the circumstances, and whether that -- whether the procedure for forcing edits was

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followed; is that correct?
A. That's true.
Q. And that wasn't reviewed by HCFA?
A. That's true.
Q. In 1994?
A. That's true.
Q. Factor 22 -- skipping down, talks about "S/URS Non-Institutional Provider Reviews." Do you see that? This is something that was reviewed, but it says, as part of the -- the intent is to review whether the "minimum case review requirements are met"? 15:16:3
A. Yes, sir.
Q. Is that -- does that refresh your recollection that there is some minimum number of S/URS reviewed?
A. Yes, sir.
Q. Okay.
A. There is -- there is a minimum number of institutional --
Q. Well, this is actually non-institutional.
A. Well, there's -- it's broken down, institutional and non-institutional.
Q. Okay. Do you know what that percentage is?
A. No, I don't recall. 15:17:0

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Q. Have you ever been in -- been responsible for determining whether the State of Texas has -- has done the minimum number of reviews?
A. Yes, I've done S/URS reviews. I mean, it's -- it's not a new item at all.
Q. Right. Okay. The next is "System Integrity and Information Safeguards." There was no analysis done by -- by HCFA for -- regarding the State's performance -- 15:17:
A. Yes, sir.
Q. -- for 1994? "Processing Claims for Recipients Whose Records Show Other Health Coverage." That's third-party liability issues; is that correct?
A. Yes, sir.
Q. There was no -- actually, there was no review by HCFA concerning Texas' third-party liability procedures at all that year, were there?
A. Not as part of the SPR.
Q. Right. Were they done in some other fashion?
A. I don't know. 15:18:0
Q. Factor 26, "Payment of Coinsurance, Deductibles and Other Cost Sharing Obligations." This again is another

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third-party liability issue that HCFA did not look into at all for 1994; is that correct?

A. Yes, sir.

Q. "Data Quality," that was not reviewed or monitored by HCFA in 1994 as part of this SPR?

A. Yes, sir.

Q. And then -- Factor 28 is the "Timely and Accurate Submission of Medicaid Drug Rebate Quarterly Utilization Data," which we talked about before which was, in fact, a -- in which HCFA found that the State failed to comply with the -- the regulations -- requirements, requirements of HCFA. 15:18:3

A. It's a -- yeah, it's a standard at best.

Q. Well, it's a standard that you told me that they could sanction you if you don't follow? 15:19:0

A. Well, yes.

Q. Okay. And then as -- Factor 30 is the "Accuracy of Eligibility Verification, Electronic Claims Capture, and Electronic Claims Management Systems." For the year 1994, the SPR did not address whether or not the state was complying with those requirements? 15:19:3

A. That's true.

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Q. Factor 31, "Control and Entry to the System of Health Plan Encounter Records," that's something that the State did not -- that HCFA did not address in the SPR in 1994?
A. That's true.
Q. And MARS reports, which is Management and Administrative Reporting Subsystem, HCFA did not analyze or review the State's system in '94? 15:20:
A. That's true.
Q. And a "Third Party Action Plan" was not reviewed or required in 1994?
A. That's true.
Q. Well, it -- it seems to me there is a lot of things that weren't looked at in 1994; is that fair to say?
A. That's fair to say.
Q. Okay. By my count, it's 19 out of the 33 factors. Is that an unusually high number of factors that not -- that are not reviewed in a given year?
A. Yes.
Q. Okay. Do you know why only the balance of those factors were reviewed and not the other 19? 15:20:3

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A. No, I do not.

MR. HAY: Mark that as the next exhibit, please.

(Deposition Exhibit No. 7

(marked for identification.

Q. Okay. The court reporter has handed you what's now been marked as Exhibit 7. And can you identify what that document is for the record? 15:21:(15:21:4 15:22:(

A. This is a letter from Jimmy Street, Chief of Financial Management of Medicaid in Dallas to Don Kelley -- Dr. Donald Kelley. And it's the results of the FY '91 System Performance Review.

Q. Okay. And as I understand it, you were not involved in this Systems Performance Review?

A. That's true.

Q. Okay. And your -- any information you have about it is based solely on the document that's before you, Exhibit 7? 15:22:3

A. That's true.

Q. And -- well, let me direct your attention to Page 12 of this document of -- of the SPR itself, which talks about -- it ends with Factor 27. Are we on the same page? 15:23:0

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A. Yes, sir.
Q. Okay.
MR. HART: What's the Bate number on it?
THE WITNESS: 37.
Q. Okay. And that's my first question. The next Bates number that I have is -- is 38, and it moves to Page 16 of the document. Have you ever seen Pages 13 through 15 of the document?
A. No, sir. 15:23:3
Q. Have you ever noticed that it's missing Pages 13 through 15?
A. Yes, sir.
Q. Have you asked for Pages 13 through 15?
A. Yes, sir.
Q. And have you been told they don't exist?
A. I was not told that they do not exist. That document that we brought in as -- this document here was forwarded to me.
Q. This -- by "this document," you're talking about Exhibit 3, and the top document from Exhibit 3, which is the document you reviewed, 15:24:0 which is a June 27th, 1990 letter from a Donald Hearne to Dr. Kelley; is that what you're referring to?

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A. Yes.
Q. Okay. Well, what does that have to do with the missing pages?
A. It has a little correlation in that the individual I asked the -- asked for the missing pages, he said he would send them and he sent that -- 15:24:
Q. Instead?
A. -- instead. And his telephone call after that was said, he did not have these pages, but that review will cover the -- you know, the results or -- or the problem area in the TPL Factor.
Q. When did you call this person?
A. It would have been last week.
Q. Okay. Are you relying on this TPL letter, that is part of Exhibit 3, as part of your testimony? 15:25:0
A. No. No.
Q. Okay. And who did you call; what's the person's name?
A. Phil Koether.
Q. And he is with HCFA?
A. He's with HCFA, Dallas Regional Office.
Q. Have you asked him for any additional

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documents? 15:25:3
A. No, sir.
Q. Has he been kind of forthcoming and willing to help you in terms of if you've asked him for documents or anything, he would provide it?
A. I don't know, sir.
Q. Okay. Well, he -- he did in this particular case, right?
A. Yes, sir.
Q. Let me ask you to look at Page 16. Factor 36, "Review of Claims for States Required to Perform a Mandatory CPAS." Do you see that? 15:26:0
A. Yes, sir.
Q. Okay. Does that refresh your recollection that, for states that have a mandatory CPAS, that that's part of the -- some analysis is done during the SPR?
A. Yes, sir.
Q. In this particular case, though, since Texas -- the results say that, "Texas was not required to operate a mandatory CPAS in fiscal year 1991," so this is not applicable? 15:26:3
A. Yes, sir.
Q. So as -- to your knowledge, there was no Claims Processing Assessment done part -- as

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part of the SPR analysis in '91?
A. I don't know what that factor -- I mean, the Factor is Review of Claims and State Required to Perform a Mandatory CPAS. I don't know what the evaluation criteria is for that. I don't recall it. 15:27:
Q. No, my point simply is that to the best of your knowledge, there -- there was no indication that a CPAS analysis was done for '91 as part of --
A. As -- as part of SPR, no, it was not.
Q. Right. And -- and I believe your testimony previously is, you don't know if a CPAS evaluation was done outside of the SPR process? 15:27:3
A. That's true.
Q. Okay. Let me show you a couple letters. We'll mark the letters -- which you're also relying on, if I can find them. 15:28:0
(Deposition Exhibits Nos. 8 and (9 marked for identification.
MR. HART: Got an extra copy?
MR. HAY: Yeah, actually that one is stapled. That's one of them. 15:28:3
Q. Okay. Exhibit 8 that's now been handed to

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you, that's -- for the record, appears to be a letter from Sally Richardson to DeAnn Friedholm. Do you see that? 15:29:0

A. Yes, sir.

Q. And this is -- this is one of the documents that you're relying on as part of your testimony?

A. Yes, sir.

Q. Okay. What -- for what purpose are you relying on this?

A. It was a cover letter for the SPR guide that I looked at.

Q. Okay. Now, if you'll look at the next exhibit, which is Exhibit 9. Can you -- this is another document that you've identified as -- as relying on. It's SPR 000044 and 45. 15:29:3 And, can you tell us what this document is?

A. This is a document from Christine Nye to Burton Raiford explaining the results of the FY '91 Systems Performance Review, the Texas Medicaid Management Information System.

Q. And that's the systems performance -- the second one that we just looked at?

A. Yes, sir. 15:30:0

Q. Okay. Now, this letter does set forth

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certain problems that were identified with the Texas MMIS system; is that correct?
A. Yes, sir.
Q. Okay. Let's -- let's go through that. It talks about Factor 32, "Use of Third Party Liability Thresholds for Postpayment Recoveries." Do you see that?
A. Yes, sir.
Q. And basically it says, "In a sample of 20 claims, 6 were counted as errors." See that? 15:30:3
A. Yes, sir.
Q. That's basically a 30 percent error rate?
A. Yes, sir.
Q. But even with a 30 percent error rate in this third-party liability area, the State nevertheless passed the SPR; correct?
A. Yes, sir.
Q. Okay. What's the error that has been identified? 15:31:0
A. For --
Q. Under Factor 32, yes.
A. The claims were not -- or recovery was not initiated within the 60-day deadline.
Q. Okay. And that -- that violates HCFA requirements?

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A. HCFA evidently has a 60-day period to start recovery for third-party liability. 15:31:3
Q. They have a requirement that you do that?
A. Yes.
Q. Okay. And Texas wasn't doing that in this particular case?
A. That's true.
Q. Did Texas make a -- did Texas file some kind of corrective action plan to say how they're going to correct this?
A. I don't know.
Q. Okay. Do you know if they ever did correct it?
A. No, sir.
Q. If they didn't correct it, they'd still be in violation of the HCFA requirement, correct? 15:32:0
A. Yes, sir.
Q. Okay. It says, "In addition, the SPR revealed two other weaknesses in the Texas MMIS: (1) The State system bills only one carrier for clients with multiple policies, and (2) Texas bills a number of carriers unnecessarily because field workers do not specify the types of coverage when reporting third party resources." Are those other standards or

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requirements by HCFA that -- that Texas was not meeting? 15:32:

A. Yes, sir.

Q. Do you know if they're meeting them now?

A. No, sir.

Q. The next factor is Factor 34, on the next page, "Postpayment Recoveries." This is, again, another issue of Texas not timely doing what HCFA requires. Is that -- is that a fair statement?

A. Yes, sir.

Q. It says that's one issue. It also says, "In addition State administered services including 15:33:0 primary area home care, medical transportation, adult health care, Hospice service or -- and Hospice service were not subject to TPL processing of any kind." Is there HCFA requirements that those -- that those services be subject to third-party liability?

A. It would appear so. 15:33:3

Q. Okay. And Texas was found to be in violation of the -- or in noncompliance with those requirements?

A. Yes, sir.

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Q. Do you know if Texas has, since 1991, come into compliance with respect to those requirements?
A. No, sir.
Q. No, sir, you don't know?
A. I do not know.
Q. Do you have any recollection of Texas having problems in the '80s in updating -- timely updating it's pricing file? 15:34:0
A. I don't remember any.
Q. Okay. Are there HCFA requirements in terms of the amount of time -- or about the timeliness of updating pricing files? 15:34:3
A. I -- the SPR standard has a time limit for updating standards -- I mean recipient --
Q. Pricing?
A. Pricing files.
Q. Okay. And the SPR standard is not something different than what a HCFA standard is, correct?
A. Well, that's the same thing. An SPR standard is a HCFA standard. 15:35:0
Q. Okay. So the answer is "yes," there is a -- there's a HCFA standard and requirement for updating pricing files?

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A. Yes.
Q. Okay. And, sitting here today, you don't have a recollection as to whether or not that was ever a problem with Texas?
A. No, I do not.
Q. Do you recall any problem with Texas doing -- or failing to do S/URS reviews in the personal care services? 15:35:3 15:36:0
A. No, sir.
Q. Okay. Are -- is it a requirement of HCFA that S/URS reviews be performed with respect to personal care services? 15:36:3
A. I don't know.
Q. Just because a state meets the SPR -- passes the SPR, does that mean that any costs that the state incurs are therefore automatically allowable? 15:37:0
A. Would you rephrase that question?
Q. Okay. What I'm trying to get at is -- you know, you do this SPR. Could a state say that, "I passed the SPR, therefore all my -- all my costs, whether they are incorrect payments, or still subject to fraud and abuse, or whatever, all of those need to be paid anyway?" 15:37:3

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A. Medical costs for services you're speaking of here?
Q. I'm talking about -- yeah, even -- strike that. We'll start over again.
The point -- just because an SPR -- or a state meets or passes a given SPR, does that mean that all its costs are automatically allowable, or does HCFA reserve the right to disallow costs even though a state passes an SPR?
A. HCFA reserves the right -- the right to disallow costs. 15:38:
Q. Okay. And under what circumstances would they disallow costs even though a -- a state passes an SPR?
A. There is no correlation between passing the SPR and allowing costs for the program.
Q. Okay. The SPR only relates to whether or not they're -- the state is going to continue to be funded for the implementation of the system? 15:38:3
A. And operation of the system.
Q. And the operation of the MMIS system?
A. Yes, sir.
Q. Okay. So it has nothing to do with

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whether the cost -- whether the claims, in effect, are correct or not, it only has to do with whether there is going to be a continued payment, or sharing of the payment, by the Fed in the maintenance and operation of the MMIS; is that correct?

A. You made two statements there. I think one is correct and one is incorrect. 15:39:0

Q. Okay. Can you clarify that for me?

A. The SPR is a -- a tool to measure whether the MMIS is meeting the HCFA requirements.

Q. Right.

A. And they are matched. They can continue to receive their increase matching. Your other statement referred to the program expenditures?

Q. Uh-huh. 15:39:3

A. And the program expenditures are outside of the MMIS arena.

Q. And the SPR arena?

A. And the SPR arena.

Q. That -- that's fine. I appreciate the clarification.

Is there a mandatory -- is CPAS still mandatory? 15:40:0

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A. I don't know.
Q. Was it still mandatory when you left in 1995, or do you know?
A. I think it was.
Q. Okay. Do you know what Estate's Recovery is?
A. A what?
Q. Estate -- Estate Recovery.
A. Estate Recovery?
Q. Yeah.
A. No.
Q. Okay. How -- how about, do you know if there is any HCFA requirement about trying to -- for each state having to attempt to recovery -- recover from the estate of a deceased recipient? 15:40:3
A. I've heard about that in -- you know, passing conversation with financial analysts within a region, but, no, I don't know anything about it.
Q. You don't know if HCFA has a requirement relating to that?
A. No. No. 15:41:0
Q. Have you seen any recent studies or -- or reports concerning the effectiveness of S/URS system? Is that something you would normally

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see?
A. No.
Q. Is it your view that the S/URS system is -- is an appropriate -- an adequate system for detecting fraud and abuse, or is that something outside of your expertise? 15:41:
A. I think you can detect irregularities, yes.
Q. It can detect irregularities?
A. Within the system, yes.
Q. Have you seen any analysis, or studies, or reports as to how effective it is in doing it?
A. No, sir.
Q. Have you ever done any of your own analysis or studies or -- as to how effective S/URS is in detecting irregularities? 15:42:0
A. No, sir.
Q. Are you a smoker?
A. Yes, sir.
Q. How long have you been a smoker?
A. Cumulative? I started when I was about 22 -- '57. And I've quit intermittently. 15:42:3
Q. What brand do you smoke?
A. Merit.
Q. Have you smoked that the entire time you've been a smoker?

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A. No.
Q. How long have you quit for?
A. 11 years.
Q. Why did you -- are you currently a smoker? 15:43:(
A. Yes, sir.
Q. Why did you take it -- why did you go back?
A. My wife is a smoker and cigarettes were laying around, and I guess it was just too inticing.

MR. HAY: Why don't we go off the record for a second.

(OFF THE RECORD)

THE VIDEOGRAPHER: It's 3:43. 15:43:3
We're back on the record. 15:44:3

MR. HAY: Okay. I have no further questions of this witness. Thank you very much for your time.

MR. HART: Thank you.

(DEPOSITION CLOSED)

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STATE OF _____)

COUNTY OF _____)

I HEREBY CERTIFY that I have read the foregoing deposition and that this deposition, together with my corrections, is a true record of my testimony given at this deposition.

_____
LARRY LAWSON

SUBSCRIBED AND SWORN TO BEFORE ME, this the _____ day of 19____.

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REPORTER'S CERTIFICATE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

THE STATE OF TEXAS, Plaintiff VS. THE AMERICAN TOBACCO COMPANY; R.J. REYNOLDS TOBACCO COMPANY; BROWN & WILLIAMSON TOBACCO CORPORATION; B.A.T. INDUSTRIES, P.L.C.; PHILIP MORRIS, INC.; LIGGETT GROUP, INC.; LORILLARD TOBACCO COMPANY, INC.; UNITED STATES TOBACCO COMPANY; HILL & KNOWLTON, INC.; THE COUNCIL FOR TOBACCO RESEARCH-USA, INC. (Successor to Tobacco Institute Research Committee); AND THE TOBACCO INSTITUTE, INC., Defendants	)	CIVIL ACTION NO. 5-96CV91

* *

ORAL DEPOSITION OF LARRY LAWSON

* *

I, MARY LOU TAYLOR, Certified Court Reporter for the State of Texas, do hereby certify that the facts stated by me in the caption hereof are true; that the said witness did make the above and foregoing answers in response to questions propounded as shown; that I did, in shorthand,

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report said proceedings, and that the above and foregoing typewritten pages contain a full, true and correct computer-aided transcription of my shorthand notes taken on said occasion.

I further certify that I am not in any capacity a regular employee of the party in whose behalf this deposition is taken, nor in the regular employ of any attorney of record; and I certify that I am not interested in the cause, nor a kin or counsel to either of the parties.

WITNESS MY HAND this the 19th day of August, 1997.

Mary Lou Taylor

MARY LOU TAYLOR, CSR
Certified Court Reporter
For the State of Texas
CSR No. 2215
Expiration Date: 12-31-98

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